

City of Miami Beach - City Commission Meeting
Commission Chambers, 3rd Floor, City Hall
1700 Convention Center Drive
June 9, 2004

Mayor David Dermer
Vice-Mayor Saul Gross
Commissioner Matti Herrera Bower
Commissioner Simon Cruz
Commissioner Luis R. Garcia, Jr.
Commissioner Jose Smith
Commissioner Richard L. Steinberg

City Manager Jorge M. Gonzalez
City Attorney Murray H. Dubbin
City Clerk Robert E. Parcher

Visit us on the Internet at www.miamibeachfl.gov for agendas and video "streaming" of City Commission Meetings.

ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

Call to Order - 9:00 a.m.
Inspirational Message, Pledge of Allegiance
Requests for Additions, Withdrawals, and Deferrals

Presentations and Awards

PA Presentations and Awards

Consent Agenda

C2 Competitive Bid Reports
C4 Commission Committee Assignments
C6 Commission Committee Reports
C7 Resolutions

Regular Agenda

R2 Competitive Bid Reports
R5 Ordinances
R6 Commission Committee Reports
R7 Resolutions
R9 New Business and Commission Requests
R10 City Attorney Reports

Reports and Informational Items



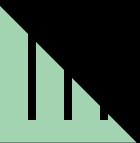
*"We are committed to providing excellent public service
and safety to all who live, work, and play in our vibrant, tropical, historic community."*

PA - Presentations and Awards

- PA1 Certificates Of Completion To Be Presented To Participants Of The City Of Miami Beach Community Emergency Response Team (CERT). (Page 2)
(Neighborhood Services)
- PA2 Certificates Of Appreciation To Be Presented To Felix Lopez And Abdier Sandiago, Armor Security Guards, For Their Heroic Efforts In Saving The Life Of A Woman Who Nearly Drowned.
(Fire Department)
- PA3 Certificates Of Appreciation To Be Presented To City Staff Who Served As Goodwill Ambassadors During The 2004 Memorial Day Holiday Weekend.
(City Manager's Office)
- PA4 Certificate Of Appreciation To Be Presented To The Miami-Dade County Office Of Community Relations For All Their Efforts In Helping To Coordinate The Goodwill Ambassador Program During The 2004 Memorial Day Holiday Weekend.
(City Manager's Office)
- PA5 Certificate Of Appreciation To Be Presented To Ralph Choeff, For Years Of Service On The Design Review Board.
(Requested by Mayor David Dermer)
- PA6 Certificates Of Appreciation To Be Presented To Faith-Based Agencies And/Or Organizations Working On Behalf Of The Homeless In Our City.
(Homeless Committee)

CONSENT AGENDA

Action:
Moved:
Seconded:
Vote:

**C2 - Competitive Bid Reports**

- C2A Request For Approval To Purchase Six (6) 2004 Ford Taurus Vehicles And One (1) 2004 Ford Crown Victoria From Duval Ford, In The Amount Of \$99,841; One (1) 2004 Chevrolet Impala From Garber Chevrolet, In The Amount Of \$16,702.15; And One (1) 2004 Ford F-150 4x4 Pick Up From Orville Beckford Ford, In The Amount Of \$18,397, Pursuant To Florida State Contract No. 03-11-0825.
(Page 5)
(Fleet Management)
- C2B Request For Approval To Issue A Request For Proposals (RFP) For The Selection Of An Auctioneer To Sell To The Highest Bidder, City-Owned Property Located At 2620 Biarritz Drive, Miami Beach, Florida. (Page 8)
(City Manager's Office/Procurement)

C4 - Commission Committee Assignments

- C4A Referral To The Neighborhood/Community Affairs Committee - Discussion Regarding Sarmiento Outdoor Advertising. (Page 14)
(Requested by Commissioner Simon Cruz)
- C4B Referral To The Finance And Citywide Projects Committee - Discussion Regarding An Ordinance Revising The Regulation And Administration Of Sidewalk Cafes. (Page 20)
(City Manager's Office)
- C4C Referral To The Neighborhood/Community Affairs Committee - An Ordinance Revising The Regulation And Administration Of Newspaper Racks. (Page 22)
(Public Works)

C6 - Commission Committee Reports

- C6A Report Of The Finance And Citywide Projects Committee Meeting Of May 19, 2004: **1)** Discussion Regarding The Sale Of Waterfront Property Located At 2620 Biarritz Drive, Miami Beach, Florida; **2)** A Resolution Authorizing The Mayor And City Clerk To Approve New Rental Rates As Proposed For The Miami Beach Convention Center, Effective October 1, 2004 For New Business And To Be Implemented As Negotiated With Existing Clients; **3)** Discussion Regarding The Development And Use Of The Parking Lot And Associated Landscaping Improvements Adjacent To The Shane Watersports Center As It Relates To That Certain Second Amended And Related/Consolidated Lease Agreement With Miami Beach Watersports Center, Inc. As Lessee, For The City-Owned Property Located At 6500 Indian Creek Drive, Miami Beach, Florida; **4)** Discussion Regarding The March 9, 2004 Voter Approved Charter Amendment Requiring That The City Commission Consider The Long Term Economic Impact (At Least Five Years) Of Legislative Acts. (Page 39)

C7 - Resolutions

- C7A A Resolution Electing Commissioner Richard L. Steinberg As Vice-Mayor For A Term Commencing On July 1, 2004, And Terminating On October 31, 2004, Or On Such Date When A New Vice-Mayor Is Thereafter Elected. (Page 54)
(City Clerk's Office)
- C7B A Resolution Approving An Increase To The Community Benefit Fund Surcharge On Tickets Sold At The Jackie Gleason Theater Of The Performing Arts (TOPA) From \$1.00 To \$1.50, And Reducing The Subsidy Percentage Paid From The Community Benefit Fund On Senior And Student Discounted Tickets From 80% To Approximately 71%. (Page 57)
(Convention Center)
- C7C A Resolution Approving And Authorizing The Mayor And City Clerk To Execute A Parking Lease Agreement With The National Marine Manufacturers Association (NMMA) Boat Show For The Preferred Parking Lot, And Related Areas; Said Lease For Specific Dates In February 2005, 2006, 2007, And 2008, Respectively, And Running Concurrently With The NMMA Boat Show Lease Agreement For The Miami Beach Convention Center. (Page 62)
(Parking Department)
- C7D A Resolution Ratifying A Contract In The Amount Of \$167,749 To Nutech Engineering Systems, Inc., For The Supply And Installation Of Theater Curtains, Theater Seating, Aisle Carpeting, Aisle Lighting, Hard Wall Finishes, Sound System, And All Associated Materials And Equipment In The Byron Carlyle Theater. (Page 79)
(Public Works)
- C7E A Resolution Ratifying A Contract, In The Amount Of \$49,745, To Laumar Roofing Services, Inc., To Provide For Pressure Cleaning, Preparation And Sealing Of Existing Cracks, And To Apply Waterproof Elastomeric Coatings/Paint To The Exterior Walls Of The Byron Carlyle Theater. (Page 92)
(Public Works)
- C7F A Resolution Adopting And Appropriating The Second Budget Amendment To The Police Special Revenue Account For Fiscal Year 2003/04 In The Amount Of \$12,000, Such Account Funded By Unclaimed Evidence Currently Held In The Police Special Revenue Account. (Page 99)
(Police Department)
- C7G A Resolution Adopting And Appropriating The Third Amendment To The Police Confiscation Trust Fund Budget For The Fiscal Year 2003/04 In The Amount Of \$_____ To Be Funded From The Proceeds Of State (\$_____) And Federal-Justice (\$_____) Confiscated Funds. (Page 104)
(Police Department)
(Memorandum and Resolution to be Submitted in Supplemental)

C7 - Resolutions (Continued)

- C7H A Joint Participation Agreement With FDOT; An Interlocal Agreement With The Metropolitan Planning Organization: Authorization For An RFQ For The Preparation Of BODR And Design Services For 16th Street Operational Improvements Project. (Page 106)
1. A Resolution Approving And Authorizing The Mayor And City Clerk To Execute An Interlocal Agreement Between The Miami-Dade County Metropolitan Planning Organization (MPO) And The City Of Miami Beach, In The Amount Of \$75,000, For The Preparation Of A Master Plan/Basis Of Design Report (BODR) For A 16th Street Operational Improvements / Enhancement Project; The Funding Split Being \$45,000 In MPO's Municipal Grant Program Funds, And \$30,000 In Concurrency Mitigation Program/South Beach Funds, As Previously Appropriated By Resolution No. 2002-24907, Dated June 19, 2002; And Further Authorizing The Advancement Of \$45,000 In City Funds For Subsequent Reimbursement By The MPO Grant Funds.
 2. A Resolution Approving And Authorizing The Mayor And City Clerk To Execute A Joint Participation Agreement With The Florida Department Of Transportation (FDOT), In The Amount Of \$120,000, For Preparation Of Final Design Plans For A 16th Street Operational Improvements/Enhancement Project; The Funding Split Being \$100,000 In FDOT's Transportation Outreach Program (TOP) Funds And \$20,000 In Concurrency Mitigation/South Beach (CM/SOBE) Funds, As Previously Appropriated By Resolution No. 2001-24587, Dated September 20, 2001; Authorizing The Appropriation Of An Additional \$70,000 In CM/SOBE Funds As Needed To Cover The Estimated \$190,000 Final Design Cost; And Further Authorizing The Advancement Of \$100,000 In City Funds, For Subsequent Reimbursement By The Top Grant Funds.
 3. A Resolution Authorizing The Administration To Issue Requests For Qualifications (RFQ) From Professional Planning And Engineering Firms Interested In Providing Phase I - Master Plan / Basis Of Design Report (BODR) And Phase II - Final Design Services For A Proposed Sixteenth Street Operational Improvements And Enhancement Project.
(Public Works)

End of Consent Agenda

PA - Presentations and Awards

- PA1 Certificates Of Completion To Be Presented To Participants Of The City Of Miami Beach Community Emergency Response Team (CERT).
(Neighborhood Services)
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(Requested by Mayor David Dermer)
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(Homeless Committee)

AGENDA ITEM PA1-6
DATE 6-9-04



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**CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY**



Condensed Title:

Request For Approval To Purchase Six (6) 2004 Ford Taurus Vehicles And One (1) 2004 Ford Crown Victoria From Duval Ford, In the Amount Of \$99,841.00; One (1) 2004 Chevrolet Impala From Garber Chevrolet, In The Amount Of \$16,702.15; And One (1) 2004 Ford F-150 4x4 Pick Up From Orville Beckford Ford, In The Amount Of \$18,397.00, Pursuant To Florida State Contract No. 03-11-0825.

Issue:

Shall the Commission approve the purchases?

Item Summary/Recommendation:


The six (6) 2004 Ford Taurus vehicles and one (1) 2004 Ford F-150 4x4 Pick Up Truck are budgeted **additions** to the Building Department and will be funded by the Building Division General Fund Account. The seven (7) new vehicles are needed to accommodate new inspector positions. The six (6) 2004 Ford Taurus vehicles will be assigned to six Section Chiefs and the 2004 Ford F-150 4x4 Pick Up Truck will be used by the new Senior Building (Roof) Inspector and will be equipped with a ladder rack. The 2004 Crown Victoria and the 2004 Chevrolet Impala are **replacements** for vehicles No. 2669 and 2366 as a result of accidents in which they were deemed a "total loss" and are being replaced using Risk Management Funds.

The Administration recommends approving the purchases.

Advisory Board Recommendation:

n/a




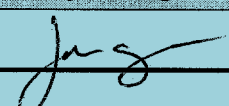


Financial Information:

Source of Funds:		Amount	Account	Approved
 Finance Dept.	1	\$ 98,401.00	011.1510.000673 Building Division General Fund Account	
	2	\$ 36,539.15	540.1792.000379 Risk Management Replacement Fund	
	3			
	4			
	Total	\$134,940.15		

City Clerk's Office Legislative Tracking:

Andrew Terpak

Sign-Offs:

Department Director		Assistant City Manager	City Manager
AT 	PA 	CMC 	JMG 
CL 	GL 	RCM	

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AGENDA ITEM

C2A

DATE

6-9-04

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: June 9, 2004

From: Jorge M. Gonzalez
City Manager

Subject: **REQUEST FOR APPROVAL TO PURCHASE SIX (6) 2004 FORD TAURUS VEHICLES AND ONE (1) 2004 FORD CROWN VICTORIA FROM DUVAL FORD, IN THE AMOUNT OF \$99,841.00; ONE (1) 2004 CHEVROLET IMPALA FROM GARBER CHEVROLET, IN THE AMOUNT OF \$16,702.15; AND ONE (1) 2004 FORD F-150 4X4 PICK UP FROM ORVILLE BECKFORD FORD, IN THE AMOUNT OF \$18,397.00, PURSUANT TO FLORIDA STATE CONTRACT NO. 03-11-0825.**

ADMINISTRATION RECOMMENDATION

Approve the purchase.

BID AMOUNT AND FUNDING

\$98,401.00	Building Division General Fund Account	011.1510.000673
\$36,539.15	Risk Management Replacement Fund	540.1792.000379

ANALYSIS

All vehicles are recommended to be purchased pursuant to Florida State Contract 03-11-0825.

The six (6) 2004 Ford Taurus vehicles and one (1) 2004 Ford F-150 4x4 Pick Up Truck are budgeted additions to the Building Department and will be funded by the Building Division General Fund Account.

During Fiscal Year 03/04, the City Manager approved to amend the Building Division's Fiscal Year 03/04 budget to include nine additional inspector positions. The seven (7) new vehicles are needed for the added positions. The six (6) 2004 Ford Taurus vehicles will be assigned to the department's six Section Chiefs, and their current vehicles will be reassigned to the incoming six inspectors. The 2004 Ford F-150 4x4 Pick up Truck will be assigned to the new Senior Building (Roof) Inspector, and this vehicle is required to be equipped with a ladder rack, in an effort to better accommodate roofing inspections.

The 2004 Ford Crown Victoria and the 2004 Chevrolet Impala are replacements for vehicles No. 2669 and 2366 as a result of accidents in which they were deemed a "total loss" and are being replaced using Risk Management Funds.

The Administration recommends that the City Commission approve the purchase of six (6) 2004 Ford Taurus vehicles and one (1) 2004 Ford Crown Victoria from Duval Ford, in the amount of \$99,841.00; one (1) 2004 Ford F-150 4x4 Pick Up Truck, from Orville Beckford Ford, in the amount of \$18,397.00; and one (1) 2004 Chevrolet Impala from Garber Chevrolet, in the amount of \$16,702.15, pursuant to Florida State Contract No. 03-11-0825.


JMG/CMC/RCM/PA/CL/GL/AET/mo
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**CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY**



Condensed Title:

Request for Approval to Issue a Request for Proposals (RFP) for the Selection of an Auctioneer to Sell to the Highest Bidder, City-Owned Property Located at 2620 Biarritz Drive, Miami Beach, Florida.

Issue:

Shall the City Commission Approve the Issuance of an RFP?

Item Summary/Recommendation:

The Mayor and City Commission at its December 10, 2003 meeting, adopted Resolution No. 2003-25440 calling for a special election to be held on March 9, 2004, for the purpose of submitting to the electorate of the City of Miami Beach (the "City") a question asking whether the City should sell waterfront property located at 2620 Biarritz Drive in Miami Beach, Florida (the "Property"), with the sale proceeds to be utilized for renovation of the City's Normandy Shores Golf Course. On March 9, 2004, a special election was held and the voters approved the sale of the Property.

On April 22, 2004, an appraisal report was forwarded to the Mayor and City Commission, via Letter to Commission (LTC) No. 91-2004. Said report was prepared by Integra Realty Resources who estimated the market value of the Property as of April 8, 2004, to be \$870,000.

On May 5, 2004, the Administration recommended that the City Commission refer to the Finance and Citywide Projects Committee (the "Committee") for discussion, the alternative options to consider relative to the process by which the Property will be publicly and competitively offered for sale to ensure that the highest and best price is achieved. The Mayor and City Commission accepted the Administration's recommendation and referred the item to the Committee. The Committee recommended the issuance of an RFP for the selection of an Auctioneer to sell the Property (see section below entitled "Advisory Board Recommendation").

APPROVE THE ISSUANCE OF AN RFP.

Advisory Board Recommendation:

The Finance and Citywide Projects Committee (the "Committee") at its May 19, 2004 meeting, discussed the sale of waterfront property located at 2620 Biarritz Drive, Miami Beach, Florida. After considering the various options and the pros and cons with each, the Committee instructed the Administration to establish criteria for and prepare an RFP for a Professional Real Estate Auctioneer for the sale of the Property, and to include in the RFP a minimum bid requirement for the proposed auction. The Committee expressed a sentiment that by selecting a Professional Real Estate Auctioneer, the process would be open, fair and competitive.

Financial Information: N/A

Source of Funds:		Amount	Account	Approved
<div style="border: 1px solid black; width: 80px; height: 40px; margin: 0 auto;"></div> Finance Dept.	1			
	2			
	3			
	4			
	Total			

City Clerk's Office Legislative Tracking:

Gus Lopez, ext. 6641

Sign-Offs:

Department Director	Assistant City Manager	City Manager
JD	CMC <i>all</i>	JMG <i>JMG</i>

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Agenda Item

C2B

Date

6-9-04

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: June 9, 2004

From: Jorge M. Gonzalez
City Manager

Subject: REQUEST FOR APPROVAL TO ISSUE A REQUEST FOR PROPOSALS (RFP) FOR THE SELECTION OF AN AUCTIONEER TO SELL TO THE HIGHEST BIDDER, CITY-OWNED PROPERTY LOCATED AT 2620 BIARRITZ DRIVE, MIAMI BEACH, FLORIDA.

ADMINISTRATION RECOMMENDATION

Approve the issuance of an RFP.

ANALYSIS

The Mayor and City Commission at its December 10, 2003 meeting, adopted Resolution No. 2003-25440 calling for a special election to be held on March 9, 2004, for the purpose of submitting to the electorate of the City of Miami Beach (the "City") a question asking whether the City should sell waterfront property located at 2620 Biarritz Drive in Miami Beach, Florida (the "Property"), with the sale proceeds to be utilized for renovation of the City's Normandy Shores Golf Course.

On March 9, 2004, the City held a Special Election to present the voters with seven ballot questions, including Ballot Question No. 7 entitled, "Sale of 2620 Biarritz Drive", which read as follows:

"Shall the City of Miami Beach sell waterfront property located at 2620 Biarritz Drive in Miami Beach, Florida (survey and legal description of property on file in City's Public Works Department), with the sale proceeds to be utilized for the City's renovation of the Normandy Shores Golf Course?"

The voters approved the sale of the Property. As part of the referendum, it was explained to the voters that the City would sell the Property through a public sale based on the fair market value as determined by a professional, independent appraisal. The Property would be sold to the highest bidder and zoned for a single-family residence. The proceeds of the sale would be used for the City's renovation of the Normandy Shores Golf Course. The duly registered and qualified voters of the City voted in favor of selling the aforementioned waterfront property.

On April 22, 2004, an appraisal report was forwarded to the Mayor and City Commission, via Letter to Commission (LTC) No. 91-2004. Said report was prepared by Integra Realty Resources who estimated the market value of the Property as of April 8, 2004, to be \$870,000.

On May 5, 2004, the Administration recommended that the City Commission refer to the Finance and Citywide Projects Committee (the "Committee") for discussion, the alternative options to consider relative to the process by which the Property will be publicly and competitively offered for sale to ensure that the highest and best price is achieved. The Mayor and City Commission accepted the Administration's recommendation and referred the item to the Committee.

The Committee meeting was held on May 19, 2004. The Committee discussed the sale of waterfront property located at 2620 Biarritz Drive, Miami Beach, Florida. The City Manager introduced and summarized the item by stating that the Administration is seeking guidance from the Committee relative to the competitive process and minimum bid requirements applicable to the sale of the Property.

The City's Procurement Director discussed the pros and cons associated with the following processes:

- Real Estate Auctioneer;
- Real Estate Broker;
- Competitive Sealed Bidding;
- E-Bay; or a
- Combination of two or more of the above processes.

The Committee discussed the pros and cons, including costs, associated with the alternatives available in order to optimize the return to the City from the sale of the property. After considering the various options and the pros and cons with each, the Committee instructed the Administration to establish criteria for and prepare an RFP for a Professional Real Estate Auctioneer for the sale of the Property, and to include in the RFP a minimum bid requirement for the proposed auction. The Committee expressed a sentiment that by selecting a Professional Real Estate Auctioneer, the process would be open, fair and competitive.

The following is the scope of services that will be incorporated in the RFP:

1. Design and implement a City-approved advertising campaign to local, regional and national print media publications.
2. Establishing pre-sale budget line item relative to the marketing/advertising budget for the City's approval.
3. Develop a proactive public relations campaign.

4. Notify and encourage participation from the Real Estate Brokerage community.
5. Compile, assemble and distribute complete and accurate Property information packages (in hard copy and CD) to prospective purchasers and interested brokers.
6. Monitoring all pre-sale activities and reporting processes to the City's Project Manager.
7. Establish a 1-800/866 toll free number for inquiries.
8. Link notice of sale to all industry related web sites.
9. Conduct scheduled showing/inspections.
10. Assist in the development of General Terms and Conditions relative to the sale of Property.
11. Develop all required forms.
12. Distribute the Notice of Sale to potential buyers and brokers on a national, regional and local scope.
13. Conduct day of sale activities.
14. Track all pre-sale responses to the marketing campaign.
15. Interface with all interested parties.

An evaluation committee appointed by the City Manager will recommend the most qualified professional Auctioneer based on the following criteria:

1. Experience and qualifications of the firm – 15 points.
2. Experience and qualifications of the Auctioneer(s) assigned to sell the Property – 30 points.
3. Methodology and Approach – 15 points.
4. Cost/Fees – 20 points.
5. Past Performance – 20.

CONCLUSION

The Administration recommends that the City Commission approve the issuance of an RFP for the selection of an Auctioneer to sell to the highest bidder, the City-owned property located at 2620 Biarritz Drive, Miami Beach, Florida.

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C4
Comm. Committee
Assignments

C: RCM
VG
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**CITY OF MIAMI BEACH
OFFICE OF THE MAYOR & COMMISSION
MEMORANDUM**

**TO: JORGE M. GONZALEZ
CITY MANAGER**

FROM: SIMON CRUZ
COMMISSIONER

DATE: MAY 28, 2004

RE: AGENDA ITEM

Please place the attached on the June 9th, 2004 City Commission Meeting Agenda, to be referred to the Neighborhoods/Community Affairs Committee.

SC/ml

Attachment

Agenda Item CYA
Date 6-9-04



Sarmiento

OUTDOOR ADVERTISING

444 Brickell Avenue, Suite 600
Miami, Florida 33131
tel: 305.400.7355
fax: 305.400.9991
www.sarmiento.net

April 30, 2004

To Whom It May Concern:

Photographer Michael Steinbacher has been trying to get a photography exhibit erected in the Miami area for more than a year and a half. Last summer he, Mr. Guillermo Victoria (of Sarmiento Advertising Group) and I met with the Miami Beach City Council to discuss this issue. Initially, Sarmiento had offered to supply fixtures, installation, graphics, and maintenance, while sponsorships, similar to the flamingos, would take care of Mr. Steinbacher's expenses, compensation, and help pay for a "choose your favorite photo" contest which would raise money for charity.

We met with the following Commissioners with very good results overall: first with Comm. Strinberg who seemed cautiously positive but not overly excited about the project. Next we saw Comm. Cruz who was even more enthused after seeing examples of Mr. Steinbacher's work. Following was Comm. Bower who was even more enthusiastic; she requested a presence in Lummus Park in addition to the sixty fixtures on Lincoln Road and Ocean Drive which were suggested by us. She arranged for us to see Donna and Jody Vargus with Art in Public Places to discuss the matter further. We informed Donna of his prior approval by Mr. Quinlan and the Board in the spring of 2002 which she was unaware of. She seemed equally enthused and gave us permission to display sixty fixtures for four months as a test for future exhibits. Mr. Steinbacher was to inform her of the location and dates as soon as possible, at which time he would be provided with the necessary documentation.

Unfortunately, it was discovered that ClearChannel has a 15-year exclusive outdoor advertising contract in the City of Miami Beach. This caused Sarmiento to decide that this city would not be a good test location because of potential legal problems.

Next the City of Coral Gables was also pursued with positive results. Mr. Steinbacher is now in the situation of securing funds and sponsors.

I believe Mr. Steinbacher's photography to be a benefit to the community as it portrays people as they are, in the communities where they live. Please let me know if you have any questions; I would enjoy seeing his dream brought to life even if it is not through our company.

Sincerely,

Anastasia Yecke
Account Executive



Miami Beach Art in Public Places

July 3, 2002

Michael Steinbach
1828 Bay Road
Miami Beach FL 33139

Dear Mr Steinbach:

The Art in Public Places committee was very impressed with your presentation of photographs displayed in vacant storefronts on Lincoln Road and your proposal to exhibit similar photographs depicting "real life and real people" on Ocean Drive. The committee unanimously voted to support your project and encouraged you to seek actual sites and potential sponsors.

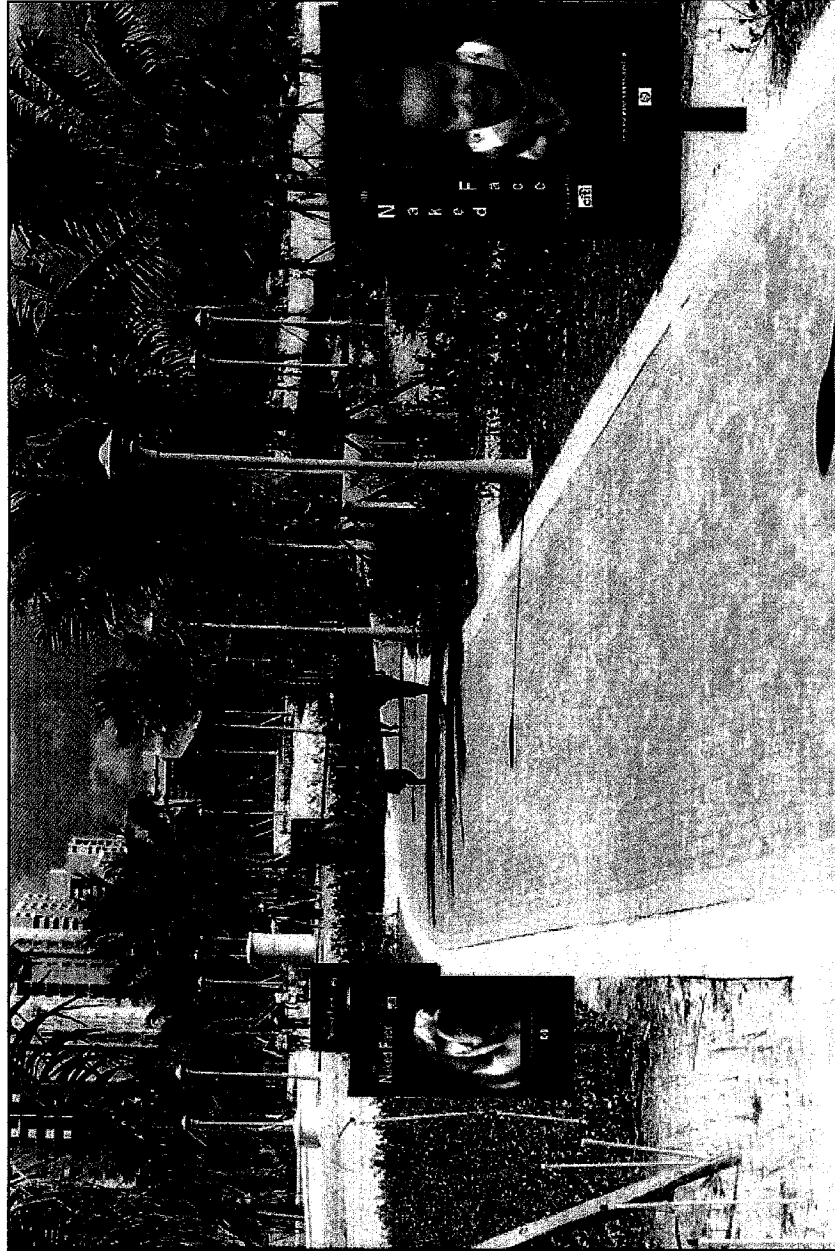
We are pleased to hear that you are moving forward with a project to temporarily enhance the Carlyle Hotel property and trust in your selection of images for display. Please let us know if we can be of assistance in any way. Display of visual art-in-public-places is what we are all about. You are one of the pioneer visionaries whose contributions have helped to make Miami Beach what it is today.

Sincerely,

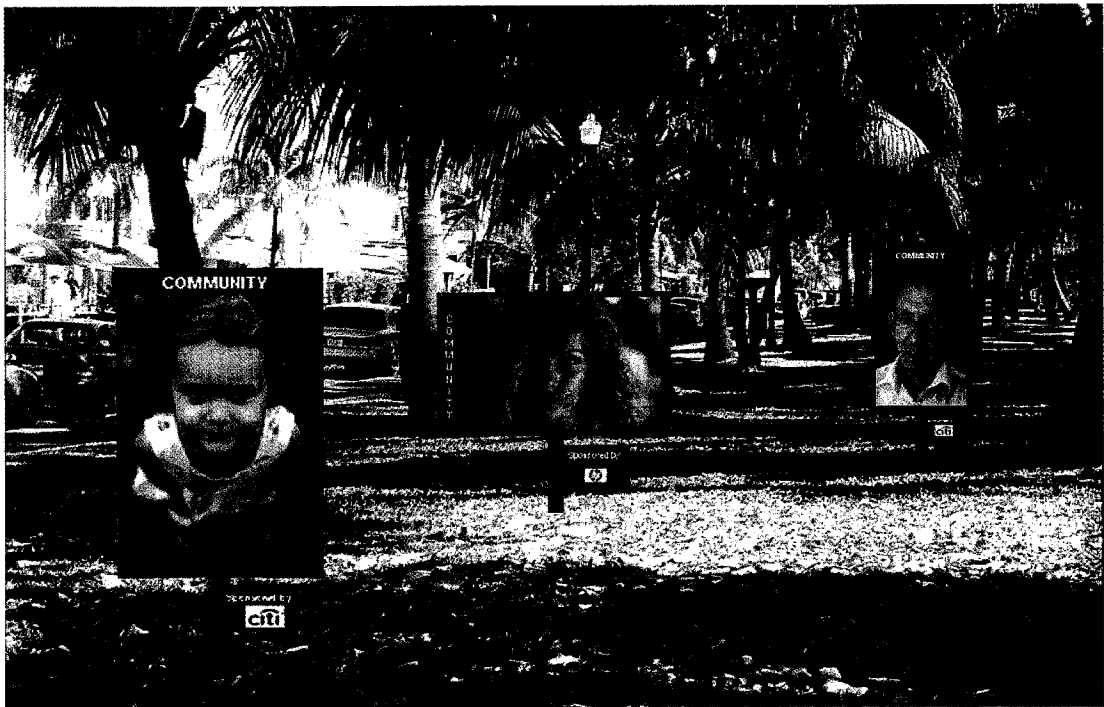

James Quinlan, Director
Arts, Culture & Entertainment



**The new
Beachwalk
*Miami Beach***



The Naked Face ⁺



CITY OF MIAMI BEACH


CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: June 9, 2004

From: Jorge M. Gonzalez
City Manager 

Subject: REFERRAL TO THE FINANCE AND CITYWIDE PROJECTS COMMISSION
COMMITTEE OF AN ORDINANCE REVISING THE REGULATION AND
ADMINISTRATION OF SIDEWALK CAFES

ADMINISTRATION RECOMMENDS:

Refer to the Finance and Citywide Projects Commission Committee.

ANALYSIS:

The sidewalk café industry is very important to the City and can provide a great benefit or, if not regulated properly, create a multitude of problems such as traffic flow, space utilization and obstruction of pedestrian walkways.

The ordinance, in its current form, is in need of revision to incorporate the growth in the sidewalk café industry and the lessons learned by the City during this growth. This proposed revision addresses all aspects of sidewalk café establishment, use of rights-of-way resources and the City's ability to regulate and administer the industry.


JMG/RCM/FHB

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Agenda Item C4B
Date 6-9-04

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CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: June 9, 2004

From: Jorge M. Gonzalez
City Manager

A handwritten signature in cursive script, appearing to read "Jorge".

Subject: REFERRAL TO THE NEIGHBORHOOD/COMMUNITY AFFAIRS
COMMITTEE OF AN ORDINANCE REVISING THE REGULATION
AND ADMINISTRATION OF NEWSPAPER RACKS

ADMINISTRATION RECOMMENDS:

Refer to the Neighborhood/Community Affairs Committee.

ANALYSIS:

Public Works Department has been preparing a revision to the current ordinance governing the permitting, location, and maintenance of portable newspaper sales racks (newsracks). This process has gained momentum and the revised ordinance, developed with the assistance of publisher representatives, is presented to the committee for discussion.

The publishing industry was notified of the ordinance changes and were invited to comment at a meeting held May 14, 2004 to present and discuss the proposed revisions. Their comments and suggestions have been included in the revised ordinance as appropriate.

In an effort to continually improve the appearance of our city, we have become more aggressive in the enforcement of the current ordinance. In March, letters were sent to all the publishers doing business in Miami Beach explaining the ordinance revision and that enforcement of the current ordinance would be increased during April. On April 1, 2004 "Advisory Notifications" were mailed to all publishers with newsracks not in compliance with the current ordinance. These letters explained that newsracks not in compliance would be tagged in 15 days. A sample of the "tag" is attached. "Letters of Violation" were mailed on April 15, 2004, to publishers with newsracks still not in compliance informing them that the tagged newsracks would be removed in 15 days. The response has been over 150 applications for existing non-permitted newsracks. We removed approximately 50 newsracks that are not in compliance, during May.

Agenda Item C4C
Date 6-9-04

Due to the participation in the process by the major publishers such as the Miami Herald, SunPost, USA Today, Street, Entertainment Weekly etc... we have received a great deal of input in revising the ordinance. This has been a joint effort of staff, publishing industry and citizens. The attached ordinance revision is presented in add/delete format for convenience in comparing the changes.


JMG/RGM/FHB

Newsrack Ordinance

Sec. 82-176. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adoption Date means the date the ordinance from which this article derives is adopted on second and final reading by the City Commission.

Code compliance department means the code compliance department of the city.

Curb return means the high point of the slope of a depressed curb.

Department means the Department of Public Works

Director means Director of the Department of Public Works

Environmental committee means the environmental committee of the city commission.

Newspaper storage box means any box, case, cabinet or other container used solely for the storage of newspapers, news periodicals or other written publications.

Newsrack means any self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display, distribution, storage or sale of newspapers, news periodicals or other written publications. "Newsrack" shall also mean "newspaper storage box" as defined herein.

Parkway means that area between the edge of the roadway and the adjacent property line excluding that area occupied by the sidewalks. Parkway shall also include any area within a roadway not open to vehicular travel.

Public right-of-way means any dedicated or undedicated public street, highway, sidewalk, parkway or alley.

Public works department means the public works department of the city.

Publisher means the person, individual, corporation, association, firm, company, organization, or other legal entity owning or responsible for placing or maintaining a newsrack in a public right-of-way.

Roadway means that portion of a street improved, designed or ordinarily used for vehicular traffic.

Sidewalk means any service area provided for that part of a public right-of-way designed and ordinarily used for pedestrian travel.

Special master means the special master as established in section 30-36 et seq.

Street means all of that area dedicated to public use for public traffic purposes and shall include but not be limited to roadways, parkways, alleys and sidewalks.

Sec. 82-177. Statement of purpose.

(a) The uncontrolled placement of newsracks in public rights-of-way threatens this city's aesthetic values and presents an inconvenience and danger to the safety and welfare of persons using such rights-of-way, including pedestrians, persons entering and leaving vehicles and buildings, and persons performing essential utility, traffic control and emergency services.

(b) Newsracks located so as to cause an inconvenience or danger to persons using public rights-of-way constitutes public nuisances.

(c) It is a matter of public necessity that the city protect children, handicapped individuals, senior citizens and others on its public streets, sidewalks, transportation facilities and other public rights-of-way from improperly maintained and placed newsracks.

(d) The provisions and prohibitions contained in this division are intended to secure and promote the public health, safety, aesthetic values and general welfare of persons in the city in their use of public rights-of-way, as well as to maintain and protect the values of surrounding properties, and to preserve the constitutional rights of newspapers and others to effectively disseminate information and communicate with the public.

(e) State law governing municipal immunity from suit for damages or injuries to persons using public facilities such as streets and sidewalks is currently unsettled, and therefore it is necessary to impose indemnification requirements on persons placing newsracks on public rights-of-way.

Sec. 82-178. Authority of the city manager, or city manager's designee, to promulgate rules and regulations.

The city manager, or city manager's designee may promulgate rules and regulations, not inconsistent with the provisions of this division, which it deems necessary to properly exercise its duties. These rules shall be put into effect only upon approval by the city commission. All such rules and regulations shall be kept posted in the office of the city manager, or city manager's designee, and a copy thereof shall be furnished to any publisher upon request.

Sec. 82-179. Permit, Fee, ~~letter of compliance~~ Application required.

(a) No distributor shall place, install, or maintain a newsrack on the public right-of-way without first obtaining a permit, to be renewed annually, for each newsrack in accordance with the provisions of this division.

(b) Failure to timely secure a permit in advance of placing a newsrack on the public right-of-way in accordance with the provisions of this article may result in the removal of the non-permitted newsrack(s) by the City as set for in this division. Alternatively, the City may pursue appropriate remedy by the Code Enforcement Division.

(c) At the time of registration each publisher shall file the following with the city manager, or city manager's designee,:

(1) A completed application form and hold harmless agreement as provided by the city manager, or city manager's designee, stating the publisher's name, address, phone number, fax phone number, newsrack distribution manager's name, requested location of the newsrack, dimensional drawing or digital photograph, from perpendicular angles, of the location, and the type of newsrack requested to be installed, maintained or operated in the city by the publisher identifying each particular newsrack by serial number or other means deemed acceptable by the City manager, or city manager's designee,.

(2) A letter of compliance from the publisher certifying that the publisher's newsracks and their locations conform to the provisions of this division; and

(d) The following fees shall apply to newsracks:

(1). A one-time permit fee of ~~\$50.00~~ \$75.00 shall be required for each newspaper publisher to defray costs of administering this division.

(2). An additional ~~non-reoccurring~~ annual fee of ~~\$15.00~~ \$35.00 per newsrack is to be paid by the publisher at the time of the initial registration and at the time of annual renewal of that particular newsrack to defray costs of inspection of the newsrack.

(3). A change in location of any newsrack during the annual registration period may be made so long as the publisher obtains prior approval of the new location from the city manager, or city manager's designee, and the change does not result in a violation of this division; there shall be a \$25.00 re-inspection fee per newsrack for any location change. Forms for registering a change in location of any newsrack shall be furnished upon the publisher's request by the city manager, or city manager's designee.

e) Denial of permit. If a permit for the newsrack location applied for is denied, the distributor shall be notified within 3 working days of the city's denial. The applicant may apply for an alternative location within 30 days of a denial at no additional permit fee.

(f) Additional permits. If at any time after initial application for a permit, a distributor wishes to install additional Newsracks, then subsections (a), (b) and (c) are to be repeated in accordance with the provisions of this article. Additional permit fees shall be in accordance with subsection (d).

(g) Appeals. Any distributor who has been denied a permit pursuant to the provisions of this article may appeal by filing a written request to the Director. The Distributor will be notified within 30 calendar days of the Director's decision.

Sec. 82-180. Indemnification.

At the time of registration required by section 82-179, each publisher shall execute an indemnification and save-harmless agreement, relieving the city, its employees, officers and boards, from any and all threat of damages, costs and liability whatsoever arising from, growing out of or incident to or in any manner connected with the installation, maintenance or operation of each such newsrack, owned or maintained by the publisher, together with all costs and attorneys' fees, incurred by the city in defending any claim or suit brought against it, either as sole defendant or joined as a defendant with the publisher, with regard to the publisher's newsracks and specifically including any claim or suit against the city alleging liability based on the city's failure to properly enforce or administer the provisions of this division. This indemnification and save-harmless agreement shall also provide that the publisher shall receive prompt notice of any such cause of action and shall be afforded the opportunity to defend same. If the publisher fails to defend the same, the publisher will pay to the city upon demand all reasonable costs, charges and fees incurred in connection therewith.

Sec. 82-181. Application of division.

The provisions of this division shall apply to all newsracks, installed and maintained prior to or after the effective date of this division.

Sec. 82-182. No criminal sanctions.

Notwithstanding any provisions of section 1-14, no person shall be subject to the imposition of criminal liability for any violation of this division.

Subdivision IV. Regulations

Sec. 82-183. Maintenance and installation standards.

- (a) Newsracks placement is generally permitted at then following location only or at other locations approved the city manager or his designee.
 - (1) On sidewalks. Newsracks shall be situated parallel to the edge of the sidewalk. A minimum sidewalk space of three feet shall remain clear in front of the newsracks.
 - (2) In a grass, dirt, gravel, or like area. Newsracks placed in a grass, dirt, gravel, or like area must be secured to concrete foundations, as required by this division. Notwithstanding the foregoing, newsracks may not be chained or otherwise tied to any poles, trees, etc... under any circumstances.
- (b) Each newsrack installed, used or maintained in a public right-of-way within the city shall comply with the following standards:
 - (1) *Dimensions and type.* Newsracks shall be 36 inches in height, with an additional 13 inches allowed for a coin-box attachment, 20 inches in width, and 20 inches in depth. The dimensions of any newspaper storage box shall not exceed 36 inches in height, 20 inches in width, and 20 inches in depth.
 - (2) *Label.* Newsracks shall carry no card holders or advertising, but may display the name, with lettering and background of any colors, of the newspaper being dispensed.
 - (3) *Weight.* The total weight of the newsrack and any weighing device shall not be less than 125 pounds. ~~In the event of the issuance of a hurricane warning by any entity with jurisdiction to issue such a warning, the newsrack shall be removed by the publisher or laid down and secured to a non-movable fixture or structure.~~
 - (4) *Free newspapers.* Newsracks for free newspapers may omit the coin box and may have the pull bar welded to the door to produce an honor rack.
 - (5) *Condition.* Each newsrack shall be maintained in good repair and reasonably neat and clean condition at all times. The newsrack shall conform to the following standards:
 - a. The newsrack shall be constructed of galvanized steel with corrosive resistant hardware and door assembly. Manufacturer's modifications to the door, window and cabinetry for the above-described newsracks to accommodate vertically formatted, "tabloid type" newspaper displays and distribution are

acceptable. The shape of all newsracks shall be hexahedron/rectangular. No pedestal newsracks will be allowed.

b. The color of the entire newsrack including coin box and mounting hardware shall be painted a dark green with a powder finish consistent with the paint sample provide by the Public Works Department.

c. Newsracks shall carry no card holders or advertising, but a cling-on sticker or equivalent may be placed within a four-inch square area of the inside lower left hand corner of the clear plastic viewing panel of the access door the purpose of promoting particular features or offerings inside the current publication. Said sticker shall be applied only during the period of time that is relevant to the current publication distribution and it shall be the responsibility of the distributor to remove said sticker when no longer applicable. Furthermore, newsracks may display the name, with lettering of any color, of the newspaper being dispensed, in spaces the locations and sizes set forth below:

(i) On the front of the newsrack, the lettering size shall not exceed one and three-quarters in height. The lettering shall be placed within a clear or colored-band space not exceeding two and one-half inches in height above the door hinge.

(ii) on the sides of the newsrack, the lettering size shall not exceed two and one-half inches in height. The lettering shall be placed within a clear or colored band space not exceeding four inches in height and beginning one inch from the top of the newsrack.

(iii) On the back of the newsrack, the lettering and/or copy of the front page of the publication shall not exceed 16 inches in height. The lettering and/or copy of the front page of the publication shall be paced with a clear or colored band space beginning one inch from the top of the newsrack.

(d) Newsracks shall be reasonably free of rust and corrosion in any unpainted metal area. The plastic or glass parts thereof, if any, are unbroken and reasonably free of cracks, dents, and discoloration.

~~(e) The paper or cardboard parts thereof, if any, are reasonably free of tears, peeling or fading.~~

(e) The structural parts thereof shall not be broken or unduly misshapen.

(f) Any coin-return mechanism and other mechanical parts are in proper working order.

Sec. 82.184. Newsrack mounting standards.

- (a) The following standards shall be applicable the mounting of newsrack on concrete surfaces:
 - (1) The base of the newsrack shall be mounted on two "L" shaped steel brackets, seven sixty-fourths inch thick. And one and quarter inch high and wide, with a depth equal to the depth of the newsrack. One hole shall be at each corner of the steel bracket or inserting of an anchor or bolt.
 - (2) Each steel bracket shall be attached to the sides of the news rack base with a minimum of two metal non-corrosive anchors.
 - (3) To anchor the steel bracket to the concrete surface, four, three/eights inch diameter drop-in anchors, one and five/eights inch minimum embedment with tops flush with the concrete surface will be used.
 - (4) Four, three/eights inch diameter galvanized anchor bots, on-inch minimum length shall be used to secure the brackets to the concrete. The bolts shall be used to firmly secure the steel brackets to the drop-in anchors.
 - (5) Steel brackets and bolt heads shall be painted to match the newsrack color and finish.
 - (6) The installed newsrack shall be plumb.
- (b) The following standards shall be applicable to the mounting of newsracks on grass, dirt, gravel or like areas:
 - (1) Foundation will be of concrete minimum of four-inches deep, 2,500 PSI, 28 day strength, class I mix reinforced with welded wire mesh.
 - (2) Minimum distance from vertical side of the newsrack to the nearest concrete edge shall be three inches.
 - (3) There will be a one/half inch chamfer on all concrete edges.
 - (4) Anchor to concrete foundation will be as per section 82-184.
 - (5) Concrete base installed by distributor shall become the property of the City and remain in place notwithstanding the removal of the newsrack(s) in accordance with the provisions of this division.
- (c) All newsracks placed, maintained or operated within a public right-of-way in the city shall conform with the standards specified in subsections of this section.

- (b) Newsracks shall only be situated at the rear of a sidewalk, near a curb, adjacent to the wall of a building, or at another location approved by the city manager, or city manager's designee. If a newsrack is placed near a curb, the back of the newsrack shall be situated so as not to constitute a hazard to either pedestrians or vehicles traveling the road or parking alongside of the sidewalk. If the newsrack is placed adjacent to the wall of a building, the back of the newsrack shall be situated parallel to and as close as possible to the wall. No person shall install, use or maintain any newsrack:
- (1) Within five feet of any marked or unmarked crosswalk;
 - (2) Within five feet of any curb return;
 - (3) Within ten feet of any fire hydrant, fire-call box or other emergency facility;
 - (5) Within ten feet of any advertisement panel located on a transit shelter, except that newsracks may be located within transit shelters with the expressed written approval of the public works department;
 - (6) Within three feet of utility, traffic, or street light poles, mailboxes, parking meters, or other objects legally permitted;
 - (7) Within five feet of any area improved with lawn, flowers, shrubs or trees within the public rights-of-way;
 - (8) Within four feet of any driveway; or
 - (9) Where placement unreasonably interferes with or impedes the flow of vehicular or pedestrian traffic, but in no event at any location where the clear space for the passageway of pedestrians is reduced thereby to less than three feet.
- (d) No more than eight twelve feet of newsracks may be placed at any one location; these newsracks may be placed immediately adjacent to each other in a horizontal line or in another configuration that does not violate any other provision of this chapter. Individual newsracks or newsrack groups placed at locations other than corners shall be located mid-block and at least 60 feet from corners.
- (e) Notwithstanding the provisions of subsections ~~(b)-(d)~~ of this section, if the limitations on newsracks impairs the ability of a publisher to distribute a publication through newsracks to members of the public who desire to receive that publication at a particular location, and there is no alternate location available for a newsrack under this division reasonably accessible to the members of the public, the city manager, or city manager's designee, shall, where the public safety will not be impaired, permit that publisher to place newsracks at that location.

(g) Where a newsrack installed prior to the effective date of this division does not comply with one or more of the requirements of this section, and where the publisher responsible for that newsrack wants to retain the newsrack in the same location, the publisher may request permission to retain that location from the city manager, or city manager's designee,. The director shall grant the publisher's request if retaining the location in question is consistent with the purpose and intent of this division and does not present a danger to persons or property. Any publisher aggrieved by the decision of the city manager, or city manager's designee, may appeal the decision to the special master.

(h) Notwithstanding any other section of this division, no publisher shall install, use or maintain any newsrack where its placement endangers the safety of persons or property.

Sec. 82-185. Notice of violation; request for hearing.

~~Except as provided in section 82-203, Whenever the city manager, or city manager's designee, finds that a newsrack is in violation of this division, the city manager, or city manager's designee, shall mail a advisory notice~~ Notice of Violation specifying the violation to the publisher responsible for the newsrack. Additionally, the city manager, or city manager's designee, will attempt to notify the publisher by telephone, FAX and, where possible, electronic mail (e-mail) specifying the violation. The city manager, or city manager's designee, shall also cause a tag to be attached to the newsrack specifying the date and nature of the violation. The written notice of violation and information regarding procedures for appeal from the findings of violation shall thereafter be sent by certified mail by the city manager, or city manager's designee, to the registered publisher responsible for the newsrack and to any person whose name appears on the newsrack ~~as provided in section 82-256.~~ The publisher, or his designee, shall, within 45 7 days from the date on which the tag was attached, either cause the violation to be corrected or request a hearing pursuant to section 82-185. In the event the newsrack in violation is not registered with the city and no information is available on the newsrack that would allow contacting the publisher the city manager, or city manager's designee, will direct that the newsrack be removed from the location and stored in accordance with section 82-185 of this division while further attempts are made to contact the responsible publisher.

Any newsracks installed, used or maintained in violation of this division may, after prior notices to the publisher as provided in section 82-185, be removed by the city manager, or city manager's designee, and stored in a place convenient to the city manager, or city manager's designee,; except that a request for hearing pursuant to section 82-207 filed within the 45 7 day period shall stay removal pending the outcome of the hearing and any subsequent judicial review. The stay shall expire when:

- (1) A request for hearing has been withdrawn and the violations cited have not been corrected;

- (2) A hearing has resulted in a final determination that the violation specified on the tag attached to such newsrack has in fact occurred, and the publisher has failed to correct such violation or seek judicial review of same within ~~30~~ 10 days from the date of determination; or
 - (3) When all judicial review is concluded, and the determination of violation has been sustained and the publisher has failed to correct the violations in question within ~~30~~ 10 days of the date of the last judicial determination.
- (b) Notwithstanding any other provision of this division, when any newsrack poses an imminent or immediate hazard to pedestrians, vehicles or property, the city manager or manager's designee shall attempt to give telephone notice to the publisher and afford the publisher the opportunity to remove or otherwise relocate the newsrack. Where telephone notice is not feasible or where the publisher fails to remove or relocate the newsrack following the notice, the city manager, or city manager's designee, may remove or relocate the newsrack immediately. The newsrack may be stored as provided in subsection (a) of this section, and notice shall be provided to the publisher in accordance with section 82-186. A newsrack shall be deemed a hazard when its installation, use or maintenance endangers the safety of persons or property.

Sec. 82-186. Notice of removal and storage.

Whenever any newsrack is removed and stored pursuant to section 82-186, a written notice shall be sent by certified mail within three working days following removal and storage to the person whose name appears on the label and to the publisher if identifiable; the person so notified may regain possession of the newsrack as provided in section 82-187.

Sec. 82-187. Release of stored newsracks, storage fee; inspection fee.

(a) Any newsrack, together with its contents, which has been stored pursuant to section 82-186 shall be returned to the publisher:

- (1) Upon receipt by the city manager, or city manager's designee, of a removal fee of \$50.00 and a storage fee of \$5.00 per day paid by the publisher; or
 - (2) Upon filing of a request for hearing pursuant to section 82-207 accompanied by a deposit of a \$50.00 removal and storage fee to be held by the city manager, or city manager's designee,, which fee shall be returned to the publisher upon a determination by the special master after a hearing pursuant to section 82-190 or by a court upon judicial review that the newsrack should not have been removed.
- (b) The city manager, or city manager's designee, shall re-inspect the corrected condition of any newsrack reinstalled after release under this section. The publisher shall pay an inspection fee of \$10.00 for the re-inspection, except that no inspection fee

shall be imposed for any newsrack reinstalled pursuant to ~~subsection (a)(2) of this section~~ where the special master or a court has determined that the newsrack should not have been removed.

Sec. 82-187. Unclaimed newsracks.

When a newsrack stored pursuant to section 82-186 has not been claimed by its publisher pursuant to section 82-188 within 90 days of the date of storage and when no hearing has been requested by the publisher pursuant to section 82-190, the newsrack shall be regarded as unclaimed property in the hands of the city and may be disposed of as provided by law.

Sec. 82-188. Abandoned newsracks.

A newsrack shall be deemed abandoned when it does not contain the publication specified therefore within 48 hours after release of the current issue or when no publication is in the newsrack for more than seven consecutive days. When any newsrack has been abandoned on public property in the city, the city manager, or city manager's designee, shall attempt to notify the publisher by certified mail and by telephone and afford the publisher the opportunity to remove the newsrack, to resume distribution, or to show reasonable cause therefore. Where the publisher is unknown or where the publisher has failed to resume distribution, remove the newsrack or show reasonable cause therefore within 15 days of receipt of certified notice, the city manager, or city manager's designee, may remove and store the newsrack as provided by section 82-186. The publisher, if identifiable, shall receive notice of removal and storage as provided in section 82-186 and may regain possession of the newsrack pursuant to section 82-187. If a newsrack removed and stored pursuant to this section is not claimed within 90 days of the date of storage, the city manager, or city manager's designee, may request a hearing pursuant to section 82-207 for the purpose of demonstrating that the newsrack was abandoned on public property. Upon determination by the special master or a court upon judicial review, if any, that the newsrack has been abandoned on public property, the city manager, or city manager's designee, may dispose of the newsrack as provided in F.S. § 705.103.

Sec. 82-189. Hearings.

(a) *Request for hearings.* Any publisher may file a written request with the city manager, or city manager's designee, for a hearing for the purpose of demonstrating that a newsrack should not have been removed or stored, or that a violation as specified on the tag attached to a newsrack pursuant to section 82-185 has not occurred.

(b) *Notice of hearing.* Upon receipt of a request for hearing, the city manager, or city manager's designee, shall set the cause for hearing at the next scheduled hearing of the special master and shall send notice to the publisher by certified mail of the date, time and place of the hearing. The hearing shall occur no later than 45 working days

from the date on which the city manager, or city manager's designee, receives the request for hearing.

(c) *Conduct of hearing.* At the time set for such hearing, the special master shall receive all evidence relevant to the occurrence or nonoccurrence of the specified violation, compliance or noncompliance with any of the provisions of this division, and other relevant information. Such hearing need not be conducted according to formal rules of evidence, but fundamental due process shall be observed. The publisher of the newsrack in question shall be afforded the opportunity to:

- (1) Present testimony and evidence on his behalf;
- (2) Cross examine witnesses; and
- (3) Be represented by counsel at his own expense.

All testimony shall be under oath and recorded.

(d) *Decision after hearing.* At the conclusion of the hearing, the special master shall determine, from the facts adduced at the hearing, whether the newsrack should have been tagged and/or stored, and whether the publisher of the newsrack shall be required to pay the removal, storage and inspection fees as specified in section 82-179 and ~~appendix A~~. The decision of the special master shall be in writing and shall contain findings of fact, a determination of the issues presented, and an order specifying whether the removal and storage fee and inspection fee are to be imposed.

(e) *Notice of decision.* The department shall promptly send to the publisher, by first class mail, a copy of the special master's decision and order.

Sec. 82-190. Appellate procedure after hearings.

The publisher and the city manager, or city manager's designee, may seek such judicial review of the order of the special master as provided by law.

Sec. 82-191. Unlawful advertising.

No newsrack shall be used for advertising signs or publicity purposes other than those dealing with the display, sale or purchase of the newspaper or other publication contained therein.

**NOTICE OF VIOLATION
CITY CODE CHAPTER 82, NEWSRACKS**

YOU ARE HEREBY GIVEN NOTICE THAT THIS NEWS RACK IS IN VIOLATION OF THE CODE OF THE CITY OF MIAMI BEACH FOR THE FOLLOWING REASON(S):

- ☐ Section 82-206 (Abandonment)
- ☐ Section 82-231 (Registration Permit not on record)
- ☐ Section 82-256 (1) (Dimensions and Type)
- ☐ Section 82-256 (2) (Displays advertisement)
- ☐ Section 82-256 (5) (Improper maintenance of racks: Dents, Rust, Graffiti, Stickers)
- ☐ Section 82-257 b.1) (Placed in marked/unmarked crosswalk)
- ☐ Section 82-257 b.9) (Impedes pedestrian access/Sidewalk is too narrow for the rack)
- ☐ Section 82-257 d) (Exceeds maximum allowable number of racks for this location)
- ☐ Other _____

Failure to take corrective action may result in the removal of this newsrack as provided in City Code Sections 82-201 and 82-202. All costs, including removal and storage, shall be the responsibility of the newsrack owner. Please contact Public Works Engineering Division; if you have any question regarding this issue at (305)673-7080.

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CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: June 9, 2004

From: Jorge M. Gonzalez
City Manager

**Subject: REPORT OF THE FINANCE AND CITYWIDE PROJECTS COMMITTEE
MEETING OF MAY 19, 2004.**

A meeting of the Finance and Citywide Projects Committee was held on May 19, 2004 at 2:55 p.m. in the City Manager's Large Conference Room.

Finance and Citywide Projects Committee Members in attendance included: Chairperson Commissioner Jose Smith, Vice Chairperson Commissioner Richard Steinberg, and Commissioner Matti Herrera Bower.

Also in attendance were Vice-Mayor Saul Gross and Commissioner Luis R. Garcia, Jr.

City staff was represented by: Jorge M. Gonzalez, City Manager; Patricia D. Walker, Chief Financial Officer; Christina M. Cuervo, Assistant City Manager; Georgina Echert, Assistant Finance Director; Manny Marquez, Finance Manager; Gus Lopez, Procurement Division Director; Joe Damien, Asset Manager; Saul Frances, Parking Director; Max Sklar, Cultural Affairs and Tourism Development Director; Jean Olin, Deputy City Attorney; Raul Aguila, First Assistant City Attorney; and Erica Shafir, Office Associate V.

Others in attendance included: Doug Tober and Jeff Iserson, representing SMG; David Kelsey, South Beach Hotel and Restaurant Association; A.C. Weinstein, Sun Post; Ronald Shane and Ira Nusbaum, representing the Shane Watersports Center; and, Joe Fontana, Convention Center Advisory Board.

NEW BUSINESS:

1. Discussion regarding the sale of Waterfront property located at 2620 Biarritz Drive, Miami Beach, Florida.

Action

The Committee instructed the Administration to establish criteria for and prepare a Request for Proposals (RFP) for a Professional Real Estate Auctioneer for the sale of the waterfront property located at 2620 Biarritz Drive, and to include in the RFP a minimum bid requirement for the proposed auction.

Agenda Item C6A
Date 6-9-04

City Manager Jorge M. Gonzalez introduced and summarized the item. Mr. Gonzalez stated that the Administration is seeking guidance from the Committee relative to the competitive process and minimum bid requirements applicable to the sale of the waterfront property located at 2620 Biarritz Drive in order to maximize revenue to the City of Miami Beach.

Procurement Division Director Gus Lopez distributed an outline (Attachment A) summarizing the pros and cons associated with the following potential competitive processes:

- Professional Real Estate Auctioneer
- Real Estate Broker
- Sealed Bidding
- E-Bay
- Combination of two or more of the above processes

The Committee discussed the pros and cons, including costs, associated with the alternatives available in order to optimize the return to the City from the sale of the property.

Chairperson Commissioner Jose Smith stated that he was not in favor of using a Real Estate Broker for this specific transaction. Commissioner Smith further stated that he would prefer to utilize a Professional Real Estate Auctioneer in order to maximize revenue from the sale of the property.

Vice-Mayor Saul Gross stated that it is unusual to sell property without a Real Estate Broker. Vice-Mayor Gross also stated that brokers generally have a good idea of what the market conditions are like. Vice-Mayor Gross added that by enlisting the help of the brokerage community, the City would be best utilizing word of mouth.

Vice Chairperson Commissioner Richard Steinberg asked if the City were to choose the route of conducting a real estate auction, whether or not the City had someone in-house who could facilitate the auction. Commissioner Steinberg stated that cost associated with doing the auction utilizing City Staff would be minimal compared to the route of a Professional Auctioneer? Commissioner Steinberg further asked if the City chooses to do an auction are there any legal requirements that state that a Professional Licensed Auctioneer must be utilized.

Mr. Lopez replied that the City has the option of conducting an auction utilizing City Staff in the role of Auctioneer. Mr. Lopez additionally stated that there is no legal requirement mandating the City to utilize a Professional Licensed Auctioneer. Mr. Lopez stated that the two legal requirements are to obtain a professional independent appraisal and to sell the property to the highest bidder.

Mr. Lopez also stated that the benefits of using a Professional Real Estate Auctioneer is that auctioneers specialize in real estate transactions and have the ability to send out mass mailings through the use of their databases of potential real estate purchasers from previous auctions.

Mr. Gonzalez added that Professional Auctioneers are licensed and skilled individuals that have experience in the skill of auctioneering.

Commissioner Matti Herrera Bower asked if the City could piggyback and/or utilize, if available, Miami-Dade County's in-house auctioneer or professional auctioneer?

Mr. Lopez stated that he believes that Miami-Dade County utilizes Professional Auctioneers and that if the City piggybacks on the County's contract there will be limited flexibility to tailor their contract to specific City needs.

Commissioner Steinberg asked what was done with the Altos del Mar lots that were recently sold.

Assistant City Manager Christina M. Cuervo stated that the State conducted an initial Sealed Bidding Process and then negotiated with the top three or four bidders. Ms. Cuervo further added that the City assisted the State by contributing funding for advertising to assist further outreach efforts.

Commissioner Steinberg stated that perhaps a hybrid option could be used for this transaction; combining elements of a Sealed Bid Process and a Real Estate Auction. Commissioner Steinberg stated that in using this methodology the City could obtain pre-qualified minimum bids and then pursue to conduct an auction with the top three or four bidders, or the top bidders within a certain percentage of each other.

Commissioner Smith stated that he believes the best route to go is to conduct a public nationally advertised professional auction with pre-qualified bidders. Commissioner Smith also stated that in 1990 he obtained the Sealed Bid documents for the initial sale of the Normandy Isles' Stash Site Lots and chose not to bid because the sealed bid documents process and paperwork was too cumbersome.

Commissioner Steinberg stated that a professional auction with pre-qualified bidders would keep the bidding process open and public.

The Committee instructed the Administration to establish criteria for and prepare an RFP for a Professional Real Estate Auctioneer for the sale of the waterfront property located at 2620 Biarritz Drive, and to include in the RFP a minimum bid requirement for the proposed auction.

- 2. A Resolution of the Mayor and City Commission of the City of Miami Beach, Florida, authorizing the Mayor and City Clerk to approve new rental rates as proposed for the Miami Beach Convention Center, effective October 1, 2004 for new business and to be implemented as negotiated with existing clients.**

ACTION

The Committee approved the proposed rental rates and referred the item to the May 26, 2004 City of Miami Beach Commission Meeting.

The Committee further recommended that, consistent with City Resolution 2003-25299, adopted on July 30, 2003, whenever an increase in the Consumer Price Index (CPI) reaches five percent from the time the new rates are adopted, a review of the rental rates will be presented to the Convention Center Advisory Board for its

advisory recommendation before coming to the Commission as required by the Resolution.

Convention Center General Manager Doug Tober introduced and summarized the item. Mr. Tober stated that the current rental rates at the Convention Center have been effective since October 1, 1998.

Mr. Tober further stated that the Convention Center's current rental rates, when compared with rates of eighteen competing convention centers throughout the United States, ranks at the bottom tier of the competing facilities. Mr. Tober added that SMG, the operating agent for the Convention Center, has proposed rate increases that will still allow the facility to remain competitive while boosting revenues to the City. Mr. Tober stated that the anticipated increase in revenue is approximately \$350,000.

Mr. Tober stated that the Convention Center Advisory Board (CCAB) unanimously approved the proposed rental rate increases at their April 27, 2004 board meeting.

Mr. Tober summarized the following proposed rate increases:

- Exhibit rates for the six day base rate would increase from \$0.65 per net square foot to \$0.70 per net square foot
- Exhibit rates for additional days would increase from \$0.07 per net square foot per day to \$0.08 per net square foot per day
- Non-exhibit rates per exhibit hall per event day would increase from \$6,000 to \$6,500
- Non-exhibit rates per exhibit hall per move-in or move-out day would increase from \$3,000 to \$3,250

Commissioner Richard Steinberg stated that the agenda item for the proposed rental rate increases does not include a chart listing the comparable rates of the eighteen competing convention centers.

Assistant City Manager Christina M. Cuervo stated that she would make a copy of the comparable rate survey and distribute it to the Committee (Attachment B).

CCAB Chairperson Joe Fontana stated that the CCAB unanimously approved the proposed rental rate increases, but did not approve language contained in the proposed Commission Memorandum and Resolution which states that whenever an increase in the CPI reaches five percent, from the time the new rates are adopted, a review of the rental rates will be triggered.

Commissioner Steinberg stated that the review triggered by the increase in CPI was a policy adopted by the City Commission in 2003 establishing an administrative process to review all City fees based on a threshold change in the CPI.

Commissioner Steinberg recommended that whenever an increase in the Consumer Price Index (CPI) reaches five percent from the time the new rates are adopted, a review of the rental rates should be presented to the Convention Center Advisory Board for its advisory recommendation as part of the administrative review process before coming to the Commission as required by the Resolution.

The Committee approved the proposed rental rates and referred the item to the May 26, 2004 City of Miami Beach Commission Meeting.

- 3. Discussion regarding the development and use of the parking lot and associated landscaping improvements adjacent to the Shane Watersports Center as it relates to that certain Second Amended and Related/Consolidated Lease Agreement with Miami Beach Watersports Center, Inc. as lessee, for the City-owned property located at 6500 Indian Creek Drive, Miami Beach, Florida.**

ACTION

The Committee instructed the Administration to research the options available in regards to the parking situation at the Shane Watersports Center and to discuss alternatives regarding the landscaping improvements with representatives from the Center.

Assistant City Manager Christina M. Cuervo introduced and summarized the item. Ms. Cuervo stated that the Administration is seeking guidance from the Committee in regard to two issues at the Shane Watersports Center.

Ms. Cuervo stated that the first issue involved the future use and operation of the parking lot adjacent to the facility. Ms. Cuervo additionally stated that due to the normal daily users of the center, which in many instances are local school aged youth, Miami Beach Watersports Center (MBWC), leasee of the facility, has requested that the City consider an alternative and/or reduced parking rate or methodology, to facilitate the use of the center for these users and for annual special events which occur at the facility and require use of the parking lot.

Ms. Cuervo stated that the second issue involved the improvement of the municipal parking lot and associated landscaping. Ms. Cuervo stated that MBWC has also requested that the City participate with the landscaping and improvements to the parking lot, in order to alleviate the impact to their construction budget, which has exceeded that which was initially anticipated due to certain unexpected regulatory requirements.

Ms. Cuervo added that initially the City was to pay for specific parking improvements to the surface lot adjacent to the facility and MBWC was to pay for landscaping improvements. Ms. Cuervo acknowledged that MBWC is now requesting that the City pay for the landscaping improvements in order to alleviate shortfalls in MBWC's capital budget.

Ms. Cuervo introduced Dr. Ronald Shane and Mr. Ira Nusbaum, board members from MBWC. Mr. Nusbaum stated that he wanted to clarify exactly what improvements MBWC was planning for the facility.

Mr. Nusbaum stated that extensive capital improvements are earmarked for the existing building on the leased premises, consisting of a second story to be used primarily as meeting and conference space. Mr. Nusbaum further stated that the budgets for these improvements to the facility were originally set at \$1.7 million. Mr. Nusbaum added that the budget now exceeds \$2 million.

Mr. Nusbaum also stated that due to the operational requirements of the rowing center, especially during certain MBWC sponsored events, which require accommodation of extra-long trailers used to transport the rowing sculls, traditional parking meters often hinder or limit the use of the parking area.

Mr. Nusbaum additionally stated that these sponsored events continue to increase, including training of major national and international rowing teams (including the University of Miami) and that these events require the extensive use of the parking areas, especially during certain times of the year, specifically the months of January and March, to accommodate both the parking and turnaround of the extra-long trailers and rowing sculls.

Mr. Nusbaum stated that this is also one of the reasons for which they are seeking the City's consideration with regards to minimizing the impact of any parking fees associated with the use of the parking lot.

Commissioner Matti Herrera Bower asked if there were meters located at the facility and whether or not they were enforced.

Ms. Cuervo stated that there are meters located in the lot and they have been treated in the same fashion as the meters located at 72nd Street. Parking Director Saul Frances added that meter regulations are not currently being enforced at the facility. Ms. Cuervo added that once the parking lot is improved, parking regulations would be enforced.

Commissioner Bower stated that enforcement should be universal and if the City does one thing in one area it should do the same in another area. Commissioner Bower further stated that if the City enforces parking regulations in one area of the City, it should also do the same in all other areas of the City.

Dr. Shane stated that Shane Watersports Center and its sponsored regattas are internationally known and add to the economy of the area with hotel bookings and other ancillary revenues. Dr. Shane stated that if the City begins to charge parking fees at the facility, he is afraid the center would begin to lose business.

Ms. Cuervo stated that with the increase in population in the North Beach area, the City needs to seek ways of providing available parking to the general public.

Commissioner Jose Smith asked if this lot were provided to the general public, how would the required parking for the center be addressed? Commissioner Smith added that the center must have a set legal number of parking spaces required.

Ms. Cuervo agreed with Commissioner Smith, but stated that MBWC should have to pay for these spaces as they will no longer be available to the general public at all times.

Commissioner Richard Steinberg asked what the City does as far as billing parking to the Chamber of Commerce for their usage of City owned lots.

Ms. Cuervo stated that the Chamber pays the full City rate.

Commissioner Luis R. Garcia, Jr. stated that the regattas at the center have become a regional event, which has brought life to the surrounding neighborhood and because of the nature of the facility; perhaps a certain number of parking spaces can be dedicated to the Center.

Commissioner Bower disagreed with the proposed dedication of parking spaces, and stated that every where you go, be it Lincoln Road, the Convention Center, or the Regional Library everybody pays for parking. Commissioner Bower further stated that this leads to unequal enforcement and that everybody should be treated the same. Commissioner Bower stated that the City needs to be consistent in its parking enforcement.

Commissioner Smith stated that comparing the Shane Watersports Center to other facilities is not a perfect analogy, as the Center can be considered an extension of the City and its Parks and Recreation Program. Commissioner Smith added that Flamingo Park offers free parking to its visitors.

Commissioner Steinberg added that the Shane Watersports Center's lease is similar to the Jewish Community Center's (JCC) lease, but differs in that the JCC's lease includes parking and the MBWC lease does not. Commissioner Steinberg added that perhaps the City should explore adding a parking component to the current lease with MBWC.

Commissioner Steinberg also stated that the City could waive certain parking fees excluding the non-waivable fees for the Center. Commissioner Steinberg added that if the City does not charge trailers during staging at the P-Lot for events at the Convention Center than the City shouldn't charge staging during special events at the Shane Watersports Center. Commissioner Steinberg added that the City could issue hangtags to employees and users of the Center.

The Committee instructed the Administration to research the options available in regards to the parking situation at the Shane Watersports Center and to discuss alternatives regarding the landscaping improvements with representatives from the Center.

4. Discussion regarding the March 9, 2004 voter approved Charter Amendment requiring that the City Commission consider the long-term economic impact (at least five years) of legislative acts.

ACTION

The Committee directed the Administration to continue providing fiscal impact statements consistent with what was described in the voter packages distributed during the voter approved long-term economic impact Charter amendment. Additionally the Committee stated that the Commission should continue to consider the long-term local economic impact of legislative acts.

City Manager Jorge M. Gonzalez introduced and summarized the item. Mr. Gonzalez stated that the Administration is seeking guidance from the Committee relative to the type of information and format requested in order to comply with the Charter Amendment requiring the City Commission to consider the long-term economic impact (at least five years) of legislative acts.

Mr. Gonzalez stated that it has been his regular policy to include long-term fiscal information in all applicable Commission items.

Deputy City Attorney Jean Olin stated that this item was brought forth to the Committee because at the last Commission Meeting a citizen raised a question whether a Commission Item dealing with the rollback of open hours triggered a five year economic impact study and whether or not a professional economist had an opportunity to prepare and review the five year the five study.

Commissioner Matti Herrera Bower stated that economic and fiscal analyses are always included in applicable Commission items.

Mr. Gonzalez stated that if the City had to hire a team of economist to review each Commission item, the endeavor would prove to be costly, timely and cumbersome.

Ms. Olin stated that the intent of the of the Charter Review Committee in proposing this Amendment was to codify the current practices of the Manager so if tomorrow he should leave, the next Manager would be required to provide the same information for legislative acts.

Commissioner Richard Steinberg stated the Charter Amendment as it reads only requires the City Commission to consider the long-term economic impact (at least five years) of legislative acts. Commissioner Steinberg also stated that there is a difference between fiscal impact and economic impact.

Mr. Gonzalez reiterated that it has been his policy to include long-term fiscal information in all applicable Commission items.

Commissioner Steinberg stated that it is the City Manager's responsibility to provide fiscal information and it is the task of the City Commission to review the possible economic impact of City legislation.

The Committee directed the Administration to continue providing fiscal impact statements consistent with what was described in the voter packages distributed during the voter approved long-term economic impact Charter amendment. Additionally the Committee stated that the Commission should continue to consider the long-term local economic impact of legislative acts.

JMG/PDW/mim

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ATTACHMENT A

FINANCE AND CITYWIDE PROJECTS COMMITTEE – MAY 19, 2004

**DISCUSSION RE SALE OF WATERFRONT PROPERTY LOCATED AT
2620 BIARRITZ DRIVE, MIAMI BEACH, FLORIDA**

OUTLINE

I. Professional Real Estate Auctioneer

a. Pros

1. Competitive and Open Process (may be televised).
2. Electronic distribution of Notice of Sale to buyers and brokers on a national scope (over 90,000 in some databases).
3. Broker coordination and participation.
4. Due diligence provided ahead of time (i.e. buyer qualifications & property information).
5. Leadtime – 45-60 days.
6. Sale to highest bidder.

b. Cons

1. Cost -- \$18,000 - \$20,00 reimbursable expenses and up to 7% buyer's premium (4% Auctioneer + 3% Broker). If Broker does not bring the buyer, then it's 4%.

II. Real Estate Broker

a. Pros

1. Competitive selection process via RFQ to select Broker.
2. Professional handles real estate transaction.
3. Listing in MLS

4. No reimbursable expenses (i.e. signage, brochures, advertisements, site visits)
- b. Cons
 1. Competitive process is limited (sale to highest bidder concern).
 2. Lead-time -- 90-120 days.

III. Sealed Bidding

- a. Pros
 1. Open & Competitive Process.
 2. Lead-time -- 30 days.
 3. Sale to highest bidder.
 4. No direct commissions to Broker or Auctioneer.
- b. Cons
 1. Highest bidder may be disqualified on legal or technical issue.
 - 2.

IV. e-Bay

- a. Pros
 1. Maximum exposure.
- c. Cons
 1. Legal issue/concern.

V. Combination two or more of above options.

ATTACHMENT B

**Convention Center Rate Survey
February 2004**

Facility Name	Base Rate		#Days	Extra Day	M/I/-M/O		Sample Show		Sample Show 4/4/2 days
	per nsf	Rate			Policy	Rate	2/3/1 days	Rate	
1 Atlanta (GWCC)	\$ 1.60	\$ 0.10	10		incl, then charged		\$ 1.60	\$ 1.60	\$ 1.60
2 New Orleans (Morial)	\$ 1.40	\$ 0.14	4		(1:1)+1	\$0.10	\$ 1.40	\$ 1.40	\$ 1.50
3 Los Angeles CC	\$ 0.30		1		charged	\$0.15	\$ 1.35	\$ 1.35	\$ 2.10
4 Boston (MCEC)	\$ 1.35	\$ 0.085	7				\$ 1.35	\$ 1.35	\$ 1.61
5 Houston (George R. Brown)	\$ 1.25	\$ 0.025	5		1:1.5 up to 5 days	\$0.025	\$ 1.25	\$ 1.25	\$ 1.275
6 Washington DC CC	\$ 0.24		1		charged	\$0.12	\$ 1.08	\$ 1.08	\$ 1.68
7 Orlando (OCCC)	\$ 0.65	\$ 0.16	4		charged	\$0.12	\$ 1.01	\$ 1.01	\$ 1.37
8 Atlantic City	\$ 0.95	\$ 0.10	6		incl, then charged	\$0.10	\$ 0.95	\$ 0.95	\$ 1.35
9 Minneapolis CC	\$ 0.85	\$ 0.12	4		incl, then charged	\$0.05	\$ 0.95	\$ 0.95	\$ 1.15
10 Tampa CC	\$ 0.85	\$ 0.05	2		1:1 up to 2 days	\$0.025	\$ 0.925	\$ 0.925	\$ 1.10
11 Anaheim	\$ 0.30		1		1:1	\$0.15	\$ 0.90	\$ 0.90	\$ 1.50
12 Dallas CC	\$ 0.30		1		1:1	\$0.15	\$ 0.90	\$ 0.90	\$ 1.50
13 San Diego CC	\$ 0.30		1		1:1	\$0.15	\$ 0.90	\$ 0.90	\$ 1.50
14 San Francisco (Moscone)	\$ 0.29		1		1:1 up to 5 days	\$0.145	\$ 0.87	\$ 0.87	\$ 1.74
15 Miami Beach CC (Proposed)	\$ 0.70	\$ 0.08	6		incl, then charged	\$0.08	\$ 0.70	\$ 0.70	\$ 1.02
16 Ft. Lauderdale (BCCC)	\$ 0.50	\$ 0.08	3		charged	\$0.06	\$ 0.68	\$ 0.68	\$ 0.94
17 San Antonio (Gonzalez)	\$ 0.15		1		charged	\$0.075	\$ 0.675	\$ 0.675	\$ 1.05
18 Colorado Conv Ctr	\$ 0.22		1		1:1 up to 3 days	\$0.11	\$ 0.66	\$ 0.66	\$ 1.21
19 Miami Beach CC	\$ 0.65	\$ 0.07	6		incl, then charged	\$0.07	\$ 0.65	\$ 0.65	\$ 0.93

**Convention Center Rate Survey
February 2004**

Facility Name	Base Rate		#Days incl.	Extra Day Rate	MII-M/O Policy	MII-M/O Rate	Sample Show	
	per nsf						2/3/1 days	4/4/2 days
1 Los Angeles CC	\$ 0.30	1			charged	\$0.15	\$ 1.35	\$ 2.10
2 San Francisco (Moscone)	\$ 0.29	1			1:1 up to 5 days	\$0.145	\$ 0.87	\$ 1.74
3 Washington DC CC	\$ 0.24	1			charged	\$0.12	\$ 1.08	\$ 1.68
4 Boston (MCEC)	\$ 1.35	7	\$ 0.085				\$ 1.35	\$ 1.61
5 Atlanta (GWCC)	\$ 1.60	10	\$ 0.10		incl, then charged		\$ 1.60	\$ 1.60
6 New Orleans (Morial)	\$ 1.40	4	\$ 0.14		(1:1)+1	\$0.10	\$ 1.40	\$ 1.50
7 Anaheim	\$ 0.30	1			1:1	\$0.15	\$ 0.90	\$ 1.50
8 Dallas CC	\$ 0.30	1			1:1	\$0.15	\$ 0.90	\$ 1.50
9 San Diego CC	\$ 0.30	1			1:1	\$0.15	\$ 0.90	\$ 1.50
10 Orlando (OCCC)	\$ 0.65	4	\$ 0.16		charged	\$0.12	\$ 1.01	\$ 1.37
11 Atlantic City	\$ 0.95	6	\$ 0.10		incl, then charged	\$0.10	\$ 0.95	\$ 1.35
12 Houston (George R. Brown)	\$ 1.25	5	\$ 0.025		1:1.5 up to 5 days	\$0.025	\$ 1.25	\$ 1.275
13 Colorado Conv Ctr	\$ 0.22	1			1:1 up to 3 days	\$0.11	\$ 0.66	\$ 1.21
14 Minneapolis CC	\$ 0.85	4	\$ 0.12		incl, then charged	\$0.05	\$ 0.95	\$ 1.15
15 Tampa CC	\$ 0.85	2	\$ 0.05		1:1 up to 2 days	\$0.025	\$ 0.925	\$ 1.10
16 San Antonio (Gonzalez)	\$ 0.15	1			charged	\$0.075	\$ 0.675	\$ 1.05
17 Miami Beach CC (Proposed)	\$ 0.70	6	\$ 0.08		incl, then charged	\$0.08	\$ 0.70	\$ 1.02
18 Ft. Lauderdale (BCCC)	\$ 0.50	3	\$ 0.08		charged	\$0.06	\$ 0.68	\$ 0.94
19 Miami Beach CC	\$ 0.65	6	\$ 0.07		incl, then charged	\$0.07	\$ 0.65	\$ 0.93

CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY



Condensed Title:

A resolution electing Commissioner Richard L. Steinberg as Vice-Mayor for a term commencing on July 1, 2004, and terminating on October 31, 2004, or on such date when a new Vice-Mayor is thereafter elected.

Issue:

Shall Commissioner Richard L. Steinberg be elected as Vice-Mayor?

Item Summary/Recommendation:

The City Commission established a policy of rotating the position of Vice-Mayor every four (4) months. Since 1994, the rotation has been by Commission Group number. Commissioner Richard L. Steinberg (Group III) is next in the rotation to serve as Vice-Mayor.

Advisory Board Recommendation:

N/A

Financial Information:

Amount to be expended:

Source of Funds:	Amount		Account	Approved
	1			
	2			
	3			
	4			
	Total			

Finance Dept.

City Clerk's Office Legislative Tracking:

Robert E. Parcher, City Clerk

Sign-Offs:

Department Director	Assistant City Manager	City Manager

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AGENDA ITEM C7A
DATE 6-9-04

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.ci.miami-beach.fl.us



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: June 9, 2004

From: Jorge M. Gonzalez
City Manager

Subject: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ELECTING COMMISSIONER RICHARD L. STEINBERG AS VICE-MAYOR FOR A TERM COMMENCING ON JULY 1, 2004, AND TERMINATING ON OCTOBER 31, 2004, OR ON SUCH DATE WHEN A NEW VICE-MAYOR IS THEREAFTER ELECTED.

ANALYSIS

The City Commission has established a policy of rotating the position of Vice-Mayor every four (4) months. Since 1994, the rotation has been by Commission Group number. The next Vice-Mayor Group is Group III. The term for the next Vice-Mayor is July 1, 2004 through October 31, 2004. Commissioner Richard L. Steinberg (Group III) is next in the rotation to serve as Vice-Mayor.

JMG/REP

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ELECTING COMMISSIONER RICHARD L. STEINBERG AS VICE-MAYOR FOR A TERM COMMENCING ON JULY 1, 2004, AND TERMINATING ON OCTOBER 31, 2004, OR ON SUCH DATE WHEN A NEW VICE-MAYOR IS THEREAFTER ELECTED.

WHEREAS, the Mayor and City Commission established a policy of rotating the position of Vice-Mayor every four months; and

WHEREAS, for the term commencing on July 1, 2004, and terminating on October 31, 2004, the Mayor and City Commission herein elect Commissioner Richard L. Steinberg as Vice-Mayor.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA that Commissioner Richard L. Steinberg is hereby elected as Vice-Mayor of the City of Miami Beach, Florida, for a term commencing on July 1, 2004, and terminating on October 31, 2004, or on such date when a new vice mayor is thereafter elected.

PASSED and ADOPTED THIS 9th day of June, 2004 .


ATTEST:

CITY CLERK

Mayor David Dermer

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**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

 5-28-04
City Attorney Date

**CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY**



Condensed Title:

A Resolution of the Mayor and City Commission of the City of Miami Beach, Florida, authorizing the Mayor and City Clerk to revise Community Benefit Fund reimbursement and surcharge.

Issue:

Whether the Mayor and City Commission should approve a revision of the Community Benefit Fund reimbursement parameters from current 80% of face value up to \$35 to approximately 71%, allowing for rounding, and increase of the surcharge on all tickets sold at the Jackie Gleason Theater from \$1.00 to \$1.50.

Item Summary/Recommendation:

The item recommends the approval of a revision of the Community Benefit Fund reimbursement from current 80% of face value up to \$35 to approximately 71%, allowing for rounding, and increase of the surcharge on all tickets sold at the Jackie Gleason Theater from \$1.00 to \$1.50. These revisions would allow for a reversal of trends of declining balances in the Fund brought about by lower average ticket sales for events at the Theater while maintaining high usage of the discounted ticket purchase opportunity by Miami Beach resident senior citizens and students. The changes would effect a net positive impact on the Fund of approximately \$110,000, based on assumptions using FY 2003 financials.

Advisory Board Recommendation:

The Convention Center Advisory Board unanimously approved the recommendations at its regular meeting of May 25, 2004, and they were approved by the Finance and Citywide Projects Committee of the Commission on June 1, 2004.

Financial Information:

Source of Funds:		Amount	Account	Approved
	1	\$110,000	Community Benefit Fund	
	2			
	3			
	4			
	Total			

City Clerk's Office Legislative Tracking:

Doug Tober

Sign-Offs:

Department Director	Assistant City Manager	City Manager
	<i>[Signature]</i>	<i>[Signature]</i>

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AGENDA ITEM C7B
DATE 6-9-04

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: June 9, 2004

From: Jorge M. Gonzalez
City Manager

Subject: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO APPROVE AN INCREASE TO THE COMMUNITY BENEFIT FUND SURCHARGE ON TICKETS SOLD AT THE JACKIE GLEASON THEATER FROM \$1.00 TO \$1.50, AND TO REDUCE THE SUBSIDY PERCENTAGE PAID FROM THE COMMUNITY BENEFIT FUND ON SENIOR AND STUDENT DISCOUNTED TICKETS FROM 80% TO APPROXIMATELY 71%.**

ADMINISTRATION RECOMMENDATION:

Approve the resolution authorizing the revision.

BACKGROUND:

In 1983 pursuant to Resolution 83-17447, the City established a \$1.00 surcharge on all tickets sold at the Jackie Gleason Theater of the Performing Arts (JGT), to provide better access to culture for its senior citizen population, such surcharge was to be deposited in a fund administered by the Community Benefit Committee of the City of Miami Beach, said committee having been created pursuant to the same Resolution. The monies in this fund are used to subsidize not less than 50% of the cost of theater tickets up to a face value of \$35.00, for the senior citizen residents of the City of Miami Beach. Accounting and management of the fund was assigned to SMG, the City's managing agent for the JGT, pursuant to Resolution 93-20871. In 1998, the Community Benefit Committee (CBC) sunseted and the City Commission assigned its duties, including policy administration of the Community Benefit Fund (CBF), to the Miami Beach Convention Center Advisory Board (CCAB). Subsequent to its original formation, actions by the CBC, CCAB and City Commission, including the most recent Resolution No. 97-22543, have increased the level of subsidy to its current 80% of face value up to \$35.00. Historically, users of the JGT have provided a minimum of sixty (60) and a maximum of eighty (80) tickets per performance for available sale to senior citizens and students, whom have been included in subsequent actions expanding the availability of the reduced price tickets.

At its regular meeting on April 29, 2003, the CCAB reviewed the current financial condition of the fund. SMG provided a historical recap of the CBF demonstrating that current trending of ticket sales would create a concern of insolvency in the funding of the program absent any changes. Due to its concerns over the declining balance of the fund, and in an

effort to insure the continuing viability of the program, the CCAB approved a recommendation to revise the subsidy of these tickets from 80% to 70% of face value up to \$35.00, and to limit the availability of the reduced price tickets to sixty (60) tickets per performance. This revision was to be effective for events occurring on or after July 1, 2003.

The City Commission Finance & Citywide Projects Committee reviewed this recommendation at its regular meeting of June 17, 2003, and voted to retain the current parameters of subsidy and surcharge, directing SMG only to limit the sale to sixty (60) tickets per performance, and to report periodically on the status of the fund to the CCAB.

Subsequent reports have been presented by SMG to the CCAB on September 2, 2003 and on January 27, 2004, and to the Finance & Citywide Projects Committee on January 28, 2004. At those times, trends showed the fund remaining fairly steady.

At its regular meeting on May 25, 2004, the CCAB again reviewed the current financial condition of the fund. As of September 30, 2003, the Community Benefit Fund had a balance of \$97,018.66 decreasing from \$141,353, a year earlier, the fund balance as of September 31, 2002. Strong demand for the senior program tickets, coupled with lagging general ticket sales during the current year have dropped the fund balance to \$70,080.83 as of April 30, 2004. If no changes to the program's subsidy and surcharge mechanisms are made, current projections put its balance at \$60,210.73 at the end of the current fiscal year. SMG recommended strongly that immediate steps be taken to stem this decline, lest the fund continue toward insolvency. Agreeing with those concerns over the declining balance of the fund, and in an effort to insure the continuing viability of the program, the CCAB approved a recommendation to revise the subsidy of these tickets from 80% to approximately 71% (allowing for rounding to the nearest \$1.00) of face value up to \$35.00, and to raise the surcharge on tickets from the current (and original) \$1.00 per ticket up to \$1.50 per ticket. This revision is to be effective for events occurring on or after July 1, 2004.

In analyzing the effect of the proposed decrease in subsidy, limiting of ticket availability and increase in surcharge, if effected immediately, the projected fiscal year end balance of the fund is projected to be approximately \$87,000, thus reversing the current trend of decreasing balance. It should be noted that the net effect to the ticket buyer is an increase in cost from the current maximum of \$7.00 to a new maximum of \$10.00, which still represents an extremely cost effective benefit to the senior citizens and students of the City of Miami Beach.

CONCLUSION

This resolution should be approved to effect an increase of the long-term viability of the Community Benefit Fund ticket subsidy.

JMG/^{CMC}CMC/DT

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AN INCREASE TO THE COMMUNITY BENEFIT FUND SURCHARGE ON TICKETS SOLD AT THE JACKIE GLEASON THEATER OF THE PERFORMING ARTS (TOPA) FROM \$1.00 TO \$1.50, AND REDUCING THE SUBSIDY PERCENTAGE PAID FROM THE COMMUNITY BENEFIT FUND ON SENIOR AND STUDENT DISCOUNTED TICKETS FROM 80% TO APPROXIMATELY 71%.

WHEREAS, the City owns the Jackie Gleason Theater of the Performing Arts (TOPA) and is desirous of facilitating the continued presentation of high-quality entertainment for the benefit of its residents and visitors; and

WHEREAS, the City established the Community Benefit Fund (the Fund) in order to provide reduced-price tickets to Miami Beach resident senior citizens and students, and for funding of events beneficial to the citizens of Miami Beach; and

WHEREAS, trends in ticket sales reimbursed from the Fund have led to a declining balance that, if left unchecked, could jeopardize the long-term viability of the fund; and

WHEREAS, the City is desirous of continuing the Fund with its current self-sufficient funding mechanism; and

WHEREAS, SMG, as the City's manager at the Miami Beach Convention Center and TOPA, has recommended revisions to the reimbursement rates and surcharge of tickets sold for events at TOPA that would revise such reimbursement rates from 80% of face value up to \$35 to approximately 71% of face value, allowing for rounding, and increasing the surcharge from \$1.00 per ticket to \$1.50 per ticket; and

WHEREAS, the Administration, Convention Center Advisory Board (CCAB), and SMG have determined that adoption of these revisions are in the best interest of the City and the CCAB recommended these revisions at its meeting on May 25, 2007.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby approve an increase to the Community Benefit Fund surcharge on tickets sold at the Jackie Gleason Theater of the Performing Arts from \$1.00 to \$1.50, and to reduce the subsidy percentage paid from the Community Benefit Fund on senior and student discounted tickets, from 80% to approximately 71%.

PASSED AND ADOPTED this 9th day of June, 2004.

Attest:

CITY CLERK

JMG/CMC/rar

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MAYOR

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**


City Attorney 6-2-04
Date

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CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY



Condensed Title:

A Resolution approving a parking lease agreement with the NMMA (National Marine Manufacturers' Association) Boat Show for the Preferred Parking Lot and related space, for specific dates in February 2005; 2006; 2007; and 2008, said lease running concurrently with the Boat Show Lease with SMG for the Miami Beach Convention Center.

Issue:

Should a parking lease agreement be approved with NMMA/Boat Show for the use of the Preferred Parking Lot and related space on certain dates in February 2005, 2006, 2007, and 2008?

Item Summary/Recommendation:

The NMMA Boat Show has a current lease agreement for the Miami Beach Convention Center through 2010. The parking lease agreement would run concurrent to the MBCC lease through 2008. This would allow for additional exhibitor space in the Preferred Parking Lot. An increase in rental rates equating to 9.7% has been negotiated despite a decrease in show dates from six to five days.

Adopt the Resolution.

Advisory Board Recommendation:

It is anticipated that the Transportation and Parking Committee will endorse this recommendation at their regularly scheduled meeting on Monday, June 7, 2004.

Financial Information:

Amount to be expended:

Source of Funds:		Amount	Account	Approved
	1			
	2			
	3			
	4			
	Total			

Finance Dept.

City Clerk's Office Legislative Tracking:

Sign-Offs:

Department Director	Assistant City Manager	City Manager
	<i>que</i>	<i>Jorge</i>

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AGENDA ITEM

e7c

DATE

6-9-04

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.ci.miami-beach.fl.us



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: June 9, 2004

From: Jorge M. Gonzalez
City Manager

Subject: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING A PARKING AGREEMENT LEASE WITH THE NMMA (NATIONAL MARINE MANUFACTURERS' ASSOCIATION) BOAT SHOW FOR THE PREFERRED PARKING LOT AND RELATED SPACE; ADDITIONAL TRAILER/BOAT STAGING SPACE; AND SERVICES TO BE PROVIDED BY THE CITY'S PARKING DEPARTMENT, FOR SPECIFIC DATES IN FEBRUARY 2005; 2006; 2007; AND 2008, SAID LEASE RUNNING CONCURRENTLY WITH THE BOAT SHOW LEASE WITH SMG FOR THE MIAMI BEACH CONVENTION CENTER.**

ADMINISTRATION RECOMMENDATION:

Adopt the Resolution.

BACKGROUND:

On April 16, 1993, the City of Miami Beach entered into a Lease Agreement with NMMA (National Marine Manufacturers Association) for specific days in February 1994, 1995, 1996, 1997 and 1998 for the NMMA Miami International Boat Show, for the rental of the Preferred Parking Lot and related public areas as extended exhibit space. The Mayor and Commission approved a three (3) year agreement in 1998 for specific days in February 1999, 2000, and 2001. Subsequently, the Mayor and Commission approved a three (3) year agreement in 2001 for specific days in February 2002, 2003, and 2004. The Parking Lease Agreement ran concurrent with the NMMA lease of the Miami Beach Convention Center.

The NMMA Miami International Boat Show has entered into a Lease Agreement with SMG for the rental of the Miami Beach Convention Center for specific dates in February 2005 through 2010. The NMMA desires to continue the rental of the Preferred Parking Lot for exhibit space and other areas for ancillary uses. The attached lease embodies the proposed Lease Agreement for the parking lot and related areas and runs concurrent with the NMMA lease of the Miami Beach Convention Center.

ANALYSIS:

The following are the previous and revised terms as negotiated with NMMA and outlined in the attached agreement. All other terms remain consistent unless otherwise noted:

1. Rental Fees:

Existing:

The lease executed in September 2001 for years 2002, 2003, and 2004 provided for a rental rate of \$64,000, including applicable taxes, for the initial term (2002) and provided for successive annual CPI increases or three percent (3%), whichever was greater. The rental rate for Year 2004 (final year) was \$67,897. NMMA agreed to subsidize fifty percent (50%) of the City's park and ride shuttle operation, in an amount not to exceed \$10,000 per year.

Proposed:

A rental rate of \$72,990 for Year 2005 (initial year) was negotiated with successive annual adjustments based on the Consumer Price Index (CPI) or three percent (3%), whichever is greater. This reflects a 7.5 % increase over the prior year's rental fee, despite one less show date as the show dates are being reduced, from six to five, commencing with the 2005 show. In addition, NMMA has again agreed to subsidize fifty percent (50%) of the City's park and ride shuttle operation, in an amount not to exceed \$12,500 per year. This is an increased subsidy of 25%.

2. Schedule of Use:

The "Schedule of Use" has been revised to be consistent with the Move-In Dates, Show Dates, and Move-Out Dates schedules at the Miami Beach Convention Center via SMG for years 2005, 2006, 2007, and 2008.

3. Notices:

All contact information has been revised with current information.

It is important to note that language shall remain in the agreement to provide for future development and/or proposed improvements to the Preferred Parking Lot, if and when it is deemed appropriate.

CONCLUSION:

The Lease Agreement proposed for the 2005, 2006, 2007, and 2008 Boat Shows commands a rental rate for all areas and services in the amount of \$72,990 per year, a 7.5% increase, despite a reduction in show dates from six (6) to five (5). In addition, NMMA agrees to continue subsidizing 50% of the City's park and ride operations, up to \$12,500 per year, an increase of 25% over the prior period. When adding the proposed rental rate of \$72,990 to the \$12,500 shuttle subsidy, the City will increase its return from the show annually from \$77,897 to \$85,490, a 9.7% increase over last year, despite one less show date. The proposed lease represents a consensus document, and is in the best

June 9, 2004
Commission Memorandum
Boat Show Agreement
Page 3 of 3

interest of the City of Miami Beach. The Administration recommends approval of the Resolution and the Lease Agreement.

JMG/CMC/SF
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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A PARKING LEASE AGREEMENT WITH THE NATIONAL MARINE MANUFACTURERS ASSOCIATION (NMMA) BOAT SHOW FOR THE PREFERRED PARKING LOT, AND RELATED AREAS; SAID LEASE FOR SPECIFIC DATES IN FEBRUARY 2005, 2006, 2007, AND 2008, RESPECTIVELY, AND RUNNING CONCURRENTLY WITH THE NMMA BOAT SHOW LEASE AGREEMENT FOR THE MIAMI BEACH CONVENTION CENTER.

WHEREAS, the National Marine Manufacturers Association (NMMA) Boat Show has entered into a Lease Agreement with SMG for the lease of the Miami Beach Convention Center (MBCC) for specific dates in February 2005, 2006, 2007, and 2008, for the Miami International Boat Show; and

WHEREAS, the NMMA Boat Show also leases the Preferred Parking Lot, located at 1800 Convention Center Drive, to extend its exhibit space from the interior of the MBCC; and

WHEREAS, the NMMA Boat Show has leased the Preferred Parking Lot for the past eleven (11) years; and

WHEREAS, the Administration has negotiated the attached new Parking Lease Agreement with the NMMA Boat Show for specific dates in February 2005, 2006, 2007, and 2008, respectively; and

WHEREAS, said Agreement is to run concurrently with the NMMA Lease Agreement with SMG at the Miami Beach Convention Center; and

WHEREAS, the attached Lease Agreement increases the net return to the City over the previous Lease Agreement, and provides for staging and meter rentals for bus passenger drop-off and pick-up areas, to and from the NMMA Boat Show.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA that the Mayor and City Commission, herein approve and authorize the Mayor and City Clerk to execute a Parking Lease

Agreement with the National Marine Manufacturers Association (NMMA) Boat Show for the Preferred Parking Lot, and related areas; said Lease for specific dates in February 2005, 2006, 2007, and 2008, respectively, and running concurrently with the NMMA Boat Show Lease Agreement for the Miami Beach Convention Center.

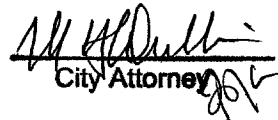
PASSED AND ADOPTED this _____ day of _____, 2004

MAYOR

ATTEST:

CITY CLERK

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

 6-3-04
City Attorney Date

JMG/CMC/SF
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**MIAMI BEACH CONVENTION CENTER AREA PARKING LEASE AGREEMENT
FOR THE NATIONAL MARINE MANUFACTURERS ASSOCIATION BOAT SHOW**

This Lease Agreement made this ____ day of _____, 2004, by and between the **CITY OF MIAMI BEACH**, a Florida Municipal Corporation (Lessor), whose address is 1700 Convention Center Drive, Miami Beach, Florida 33139, and **NATIONAL MARINE MANUFACTURERS ASSOCIATION** (Lessee), whose address is 9050 Pines Boulevard, Suite 305, Pembroke Pines, Florida 33024.

WITNESSETH:

WHEREAS, the Lessee has entered into an Agreement with SMG, as the City's manager at the Miami Beach Convention Center (MBCC), dated _____, 2004, for lease of the MBCC for specific days in February of 2005; 2006; 2007; and 2008, for the Miami International Boat Show (Main Lease), subject to the right of cancellation by the City of Miami Beach at any time after completion of the 2008 show; and

WHEREAS, Lessee wishes to lease the Preferred Parking Lot, located between Convention Center Drive and Meridian Avenue, and 18th and 19th Streets, for the purpose of exhibitor space, as well as other City owned lots, as set forth below; and

WHEREAS, it is the intent of both parties that this Lease Agreement shall serve as an exhibit to the Main Lease.

NOW, THEREFORE, in consideration of the mutual covenants herein exchanged, the parties agree as follows:

1) **Premises**. Lessee shall have the right to use as exhibit space the following outside areas; designated in the map attached as Exhibit I (and referred to

below as (a) (b), (c), and (d), respectively (hereinafter, collectively referred to as the Premises):

- a) Preferred Parking Lot: Located between Convention Center Drive and Meridian Avenue, and 18th Street and 19th Streets. This area shall be used for the purpose of exhibitor space.
- b) Municipal Surface Parking Lot No. 5H: Located at 19th and Meridian Avenue. This area shall be used for the purpose of storage material related to exhibitor space.
- c) Metered Parking Spaces - Meridian Avenue: All on-street metered parking spaces on the east side of Meridian Avenue, between 18th Street and 19th Streets. This area shall be used only as a bus drop-off and /or pick-up ramp.
- d) Additional Trailer/Boat Staging Area: Municipal Parking Lot 5A (west side) located between 17th Street and Lincoln Lane North and between Drexel and Pennsylvania Avenues, including the restriction of parking at all meters located on the south side of 17th Street between Washington Avenue and Pennsylvania Avenue; Lincoln Lane North (Washington Court) between 17th Street and Lincoln Lane North (east-west corridor). This area shall be used for the purpose of marshaling trailers immediately prior to and after the show dates.

Lessee shall be solely responsible for obtaining and paying for any and all permits and licenses necessary for its use of and operations on the Premises, as set forth above and in Exhibit I herein.

2) **Term.** The term of this Agreement shall run concurrent with the Main Lease between the NMMA Boat Show and SMG. Notwithstanding any provisions in this Agreement, in the event that the Main Lease is terminated, canceled, or expires, then this Lease Agreement shall terminate concurrent with the termination of the Main Lease, and shall be of no further force and effect.

3) **Schedule of Use.** Pursuant to the term provided in Paragraph 2 above,

Lessee shall use the Premises only on the schedule dates set forth as follows:

(a) **2005 Boat Show**

January 24 - February 16	Move-in
February 17 - February 21	Show Days
February 22 - March 2	Move-out

(b) **2006 Boat Show**

January 23 - February 15	Move-in
February 16 - February 20	Show Days
February 21 - March 2	Move-out

(c) **2007 Boat Show**

January 22 - February 14	Move-in
February 15 - February 19	Show Days
February 20 - March 1	Move-out

(d) **2008 Boat Show**

January 21 - February 13	Move-in
February 14 - February 18	Show Days
February 19 - February 28	Move-out

4) **Use.** Lessee shall use the Premises solely for the NMMA - Miami International Boat Show (Boat Show). Lessee shall have the right to use the Premises as set forth in Paragraph 1 and shall have the right to install fencing at the perimeter of the Premises, subject to its compliance with all City and Miami-Dade County permitting requirements. Lessee shall also have the right to install tents and other equipment necessary to operate the Boat Show; subject to its compliance with all City and Miami-Dade County permitting requirements. All installations and improvements shall be further subject to the current and applicable building codes and shall otherwise comply with all applicable City, County, State and Federal Laws, as applicable. Lessor agrees to provide the Premises in their "as is" condition and Lessee agrees to return said

Premises, including restoring all asphalt and other surfaces affected by its operations, to their condition prior to the move in of the Boat Show, for each Boat Show provided in the term herein.

5) **Rental.** The rental rate for the Premises shall be \$72,990, including applicable sales tax, per year, in 2005; 2006; 2007; and 2008 respectively. Lessee also agrees to pay one-half of the cost of the City's park and ride shuttle operations. This subsidy is not to exceed \$12,500 for each Boat Show provided in the term herein. Additionally, Lessee agrees to be solely responsible during the term herein for the payments of any and all taxes and/or assessments, particularly real estate taxes, which may be levied against the Premises as a result of Lessee's actions and operations thereon. Rental rate shall be adjusted annually based on the annual Consumer Price Index (CPI), or 3%, whichever is higher. Rent shall be paid to the City of Miami Beach Parking Department, 1130 Washington Avenue, Suite 100, Miami Beach, FL 33139, as follows: Fifty Percent (50%) of total rental fee and applicable sales tax and any other taxes which may become due, by February 1 of each successive year; and remaining balance within fifteen (15) days of the last show date each year.

6) **Protection Clause.** The City of Miami Beach agrees that for the term of this Agreement, it will not lease any other City-owned facilities to third parties for any boat show selling new boats, for thirty (30) days immediately prior to, and the thirty (30) days after the show dates (described herein in Section 3). The foregoing restriction shall not preclude the Lessor from leasing or issuing a Revocable Permit during the show dates for any City-owned property, including the City-owned out lots in the area of

Collins Avenue, from 49th Street to 43rd Street, and along the Indian Creek Waterway, for a boat show selling used yachts, boats and vessels.

7) **Responsibility for Clean-Up of Public Areas.** Lessee shall have a neat and orderly operation at all times and shall be solely responsible for the necessary housekeeping services to properly maintain the Premises. It shall be the sole responsibility of the Lessee to maintain the cleanliness of the Premises on a daily basis. The Lessor shall be responsible for the removal of trash, rubbish and garbage and if required by the Lessor, Lessee shall provide at its own expense, trash receptacles throughout the Premises, in an amount sufficient to maintain the cleanliness of the area. Lessee shall instruct and monitor its employees to assure that trash, rubbish and garbage is immediately picked up on the Premises. To assure that Lessee complies with this provision, Lessee shall make all areas under Premises available for examination at anytime by the City Manager or his authorized designee. The Lessee shall also be responsible for final clean-up of Premises, and shall return same to Lessor in the same condition as existing prior to the Boat Show provided in the term herein.

8) **Services to be Provided by the City's Parking Department.** It shall be the responsibility of the City's Parking Department to remove all signs, as needed, to accommodate the Boat Show; remove all parking meters on Convention Center Drive, as needed, to accommodate the Boat Show; and to bag all parking meters, as described in Paragraph 1 to accommodate the Boat Show.

9) **Lessor's Proposed Improvements.** Lessee acknowledges that the City intends to develop and implement a series of capital improvements for the Premises

(Multi-level Parking Structure) which may entail closure of all, or a portion of, the Leased Premises at Lessor's sole discretion and determination. In the event that the City closes down all, or a portion of the Premises for the purpose of undertaking the aforesaid capital project, Lessor shall provide Lessee with one (1) year prior written notice of same and the parties agree that this Lease, and the parties respective obligations hereunder, shall be stayed during the pendency of construction without liability to either party. Accordingly, Lessee acknowledges and agrees that it shall not have any claim, demand or cause of action of whatever kind or nature, against the City, its agents, servants and employees including, but not limited to, claims for interference in business or damages for interruption of the operation of the NMMA International Boat Show.

10) **Indemnification.** Lessee shall indemnify, defend and save the Lessor harmless from and against any and all claims or causes of action (whether groundless or otherwise) by or on behalf of any persons, firm or corporation, for personal injury, property damage, or other occurring upon the Premises occasioned in whole or in part by any of the following:

- a. an act of omission on the part of Lessee or any employee, agent, invitee, guest, assignee or subcontractor of Lessee;
- b. any misuse, neglect, or unlawful use of the Premises by Lessee; and/or
- c. any breach, violation, or nonperformance of any undertaking by Lessee under this Agreement.

Lessee agrees to pay and shall pay for all damage to the Premises caused by Lessee or any employee, guest or invitee of Lessee.

11) **Insurance.** Lessee shall not commence this Agreement until all insurance required under this section has been obtained and such insurance has been approved by Lessor's Risk Manager. Lessee shall maintain and carry in full force during the term of this Agreement the following insurance:

1. General Liability in the amount of \$1,000,000.00. A certified copy of Lessee's Insurance Policy must be filed and approved by the Risk Manager prior to commencement. The CITY of MIAMI BEACH must be listed as an Additional Insured.
2. Workers' Compensation & Employers Liability as required pursuant to Florida Statute. A certified copy of Lessee's Insurance Policy must be filed and approved by the Risk Manager prior to commencement. The CITY must be listed as an Additional Insured.
3. Automobile Insurance in the amount of \$1,000,000.00. A certified copy of Lessee's Insurance Policy must be filed and approved by the Risk Manager prior to commencement. The CITY must be listed as an Additional Insured.

Thirty (30) days written notice of cancellation or substantial modification in the insurance coverage must be given to Lessor's Risk Manager by Lessee and its insurance company. The insurance must be furnished by insurance companies authorized to do business in the State of Florida and approved by Lessor's Risk Manager. Original certificates of insurance for the above coverage must be submitted to the Lessor's Risk Manager for approval prior to commencement herein. These certificates will be kept on file in the Office of the Risk Manager, 3rd Floor, City Hall. All insurance policies must be issued by companies authorized to do business under the laws of the State of Florida. The companies must be rated no less than "B+" as to management and not less than "Class VI" as to strength by the latest edition of Best's

Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the CITY's Risk Manager. Compliance with the foregoing requirements shall not relieve Lessee of the liabilities and obligations under this section, or under any other portion of this Agreement, and Lessor shall have the right to obtain from Lessee specimen copies of the insurance policies in the event that submitted certificates of insurance are inadequate to ascertain compliance with required coverage.

12) **Default and Termination.** The following actions (a) through (d) shall constitute an event of default by Lessee:

- a. If Lessee abandons or vacates the Premises prior to the expiration of the term hereof;
- b. If Lessee fails to timely pay any of the rental amounts, as set forth in this Agreement;
- c. If Lessee fails to discharge or bond off any lien filed on the Premises, within three (3) days of written notice from Lessors to Lessee; or
- d. If Lessee fails to perform in accordance with any of the other terms and conditions herein contained.

In the event of default by Lessee, and such default is not cured within three (3) days after written notice to Lessee, the Lessor may terminate this Agreement without further notice to Lessee. Lessee shall immediately surrender possession of the Premises, as well as, removing any personal property and equipment from same. Any personal property and equipment not so removed shall be removed and stored by the Lessor at the expense of Lessee. Additionally, in the event of a termination hereunder, the Lessor may also pursue any and all legal remedies available to seek redress for such default.

13) **Bankruptcy and Insolvency.** If Lessee is adjudicated bankrupt or makes an assignment for the benefits of creditors, the Lessor shall have the right to immediately terminate this Agreement and re-enter the Premises without notice or demand.

14) **Sublease and Assignment.** Lessee shall not sublease the Premises or any part thereof, nor assign this Agreement, without obtaining Lessor's prior written approval, which approval may be given, if at all, at the Lessor's sole discretion.

15) **Rights of the City.** The City reserves the right to use any of the parking lots incorporated herein, if the City determines the need to do so. The exercising of such rights shall be noticed in writing to the NMMA Boat Show ninety (90) days prior to the move-in date for the show.

16) **Notices.** All notices shall be sent to the parties at the following addresses:

Lessor: City of Miami Beach
Parking Department
Attn: Saul Frances, Director
1130 Washington Avenue, Suite 100
Miami Beach, FL 33139

Lessee: NMMA Boat Shows
Attn: Cathy Johnston
Southern Regional Manager
9050 Pines Boulevard, Suite 305
Pembroke Pines, FL 33024

Lessee and Lessor may change such address at any time upon giving the other party written notification. All notices under this Agreement must be in writing and shall be

deemed to be served when delivered to the address of the addressee. All notices served by mail shall be registered mail, return receipt requested. Lessee may designate additional persons for notification of default.

17) **Waiver.** No waiver by Lessor any time of any of the terms or conditions of this Agreement shall be deemed at any time thereafter a waiver of the same or any other term or conditions hereof.

18) **Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the reminder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and be enforceable for the fullest extent permitted by law.

19) **Governing Law/Venue.** This Agreement shall be governed by and construed in accordance with the law of the State of Florida. This Agreement shall be enforceable in Miami-Dade County, Florida, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein exclusive venue for the enforcement of same shall lie in Dade County, Florida. By entering into this Agreement, Lessee and Lessor expressly waive any rights either party may have to a trial by jury of any civil litigation related to, or arising out of, this Agreement.

20) **Limitation of Liability.** Lessor desires to enter into this Agreement only if in doing so the Lessor can place a limit on the Lessor's liability for cause of action for

money damages due to an alleged breach by the Lessor of this Agreement, so that the liability for any such breach never exceeds the sum of \$10,000. Lessee hereby expresses its willingness to enter into this Agreement with Lessee's recovery from the Lessor for any damage action for breach of contract to be limited to a maximum amount of \$10,000. Accordingly, and notwithstanding any other term or condition of this Agreement, Lessee hereby agrees that the Lessor shall not be liable to Lessee for damages in an amount in excess of \$10,000, for any action of claim for breach of contract arising out of the performance or nonperformance of any obligations imposed upon the Lessor by this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed upon the Lessor liability as set forth in Florida Statutes, Section 768.28.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their appropriate officials, as of the date first entered above.

ATTEST:

Robert Parcher, City Clerk

LESSOR/CITY OF MIAMI BEACH

David Dermer, Mayor

ATTEST:

Secretary

**LESSEE/NATIONAL MARINE
MANUFACTURERS ASSOCIATION**

President

F:\PING\ALL\SAUL\COMMRESO\BSHOW04.AGR

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**


City Attorney  
Date

**CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY**



Condensed Title:

Ratification of a Contract to Nutech Engineering Systems, Inc., in the amount of \$167,749, for the installation of theater curtains, theater seating, aisle carpet and aisle lighting, hard wall finishes, sound system, and associated materials and equipment for the Byron Carlyle Theater.

Issue:

Shall the City Commission ratify a Contract to Nutech Engineering Systems, Inc., in the amount of \$167,749?

Item Summary/Recommendation:

In accordance with Resolution No. 2001-24677 adopted by the City Commission on November 28th, 2001 the Administration, through its Property Management Director, is providing General Contracting services including bidding, the award of contracts for work, and change orders on the Byron Carlyle Theater project. Under the provisions of the Resolution, contracts and purchases exceeding \$25,000 must be brought back to the City Commission for Ratification. As part of the design of the renovation project, interior finishes were required. During the design of the Theater's interior finishes, multiple vendors were contacted to provide samples and quotes on the components of the different finishes. Based on the results of the quotes and the products availability and in meeting the design criteria in style, comfort, color selection, and quality, the Property Management Director determined that Nutech Engineering Systems, Inc., was the lowest responsive responsible vendor for the Project. A contract was developed with Nutech Engineering Systems, Inc., in the amount of \$167,749, and was reviewed by the Legal Department, and executed by the Mayor and City Clerk as required.

The Administration recommends that the Mayor and City Commission ratify a Contract to Nutech Engineering Systems, Inc., in the amount of \$167,749, for the installation of theater curtains, theater seating, aisle carpet and aisle lighting, hard wall finishes, sound system, and associated materials and equipment for the Byron Carlyle Theater.

Advisory Board Recommendation:

N/A

Financial Information:

Amount to be expended:

Source of Funds:	Amount		Account	Approved
	1	\$167,749	# 301.2316.000676	
	2		(General Fund)	
	3			
	4			
	Total	\$167,749		

Finance Dept.

City Clerk's Office Legislative Tracking:

Sign-Offs:

Department Director	Assistant City Manager	City Manager

AGENDA ITEM

C7D

DATE

6-9-04

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE, MIAMI BEACH, FLORIDA 33139
<http://ci.miami-beach.fl.us>



COMMISSION MEMORANDUM

DATE: June 9, 2004

TO: Mayor David Dermer and
Members of the City Commission

FROM: Jorge M. Gonzalez
City Manager

SUBJECT: A RESOLUTION OF THE MAYOR AND MEMBERS OF THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, RATIFYING A CONTRACT IN THE AMOUNT OF \$167,749 TO NUTECH ENGINEERING SYSTEMS, INC., FOR THE SUPPLY AND INSTALLATION OF THEATER CURTAINS, THEATER SEATING, AISLE CARPETING, AISLE LIGHTING, HARD WALL FINISHES, SOUND SYSTEM, AND ALL ASSOCIATED MATERIALS AND EQUIPMENT IN THE BYRON CARLYLE THEATER.

ADMINISTRATION RECOMMENDATION

Ratify the resolution.

ANALYSIS

During the programming and design of the interior finishes to be used in the Byron Carlyle Theater, it was determined that all items to be used in the Theater needed to be constructed in conformance with the slope of the floor in the theater, acoustical need requirements, color selection, comfort of seating, sound system requirements, budget limitations, and the requirements of ADA, Building Codes, and Fire Codes. These elements needed to be matched and coordinated to other elements of the Theater to meet the design criteria.

The Mayor and City Commission, at the November 28, 2001 Commission meeting, adopted Resolution No. 2001-24677, which authorized the Property Management Director to serve as the Certified General Contractor for the design and renovations of the Byron Carlyle Theater. The Property Management Director exercised the authority given to him by the City Manager and City Commission, and had vendors provide samples for review of theater seating, developed specifications for a sound system, received samples of theater curtains, aisle carpeting, egress aisle lighting that conformed to the concrete and carpet floor conditions, hard wall coverings, and other

required interior finishes for the Theater. Bid specifications for the different components were prepared and sent to specialized vendors to provide quotes for the purchase and installation requirements to reflect the exact needs of the design and Theater configuration. These specifications also included the existing conditions of the building and the applicable code requirements that the vendors were required to follow. Additionally, vendors were requested to provide samples of products to test and to help determine which would work and fit best in the theater design plan.

Four firms that specialize in theater seating were contacted to provide quotes for the supply and installation of approximately 310 seats and the required anchoring plus the installation of ADA and Fire Code required aisle lighting. Of the four firms that received bid packages, four submitted quotes for the project. After reviewing the quotes, it was determined the theater seats provided by Nutech Engineering Systems, Inc. was of the best design, met required code compliance, and was the most comfortable to fit the theater needs. In addition, Nutech Engineering Systems, Inc., was the lowest responsive responsible bidder for the scope of work.

The sound system specifications developed for the project were reviewed and verified by the Theater Manager and Sound System Manager of the Jackie Gleason Theater and both agreed that the specifications for the sound system met the needs and requirements of the Byron Carlyle Theater. Five firms that specialize in theater sound systems were contacted to provide quotes for the sound system to be used in the project. Of the five firms contacted, all five provided quotes for the Project. Nutech Engineering Systems, Inc., was the lowest responsive responsible bidder for the scope of work.

Three firms that specialize in Theater perimeter wall curtains and curtains that surround the exterior of the stage were contacted to provide quotes for the purchase and installation of the custom made theater curtains. Of the three firms contacted, two provided quotes for the project. Nutech Engineering Systems, Inc., was the lowest responsive responsible bidder for the scope of work.

In addition to the bid items, other interior finishes elements, in the amount of \$55,884.31, were required for the project including the aisle carpeting inside the Theater and hard wall finishes that were required for the acoustic properties of the Theater and to serve as trim elements for the installed drapes and exit doors. These items were required to match and conform to the design and color selections of the other related Theater finishes. After reviewing product submittals and after verifying the materials to be in compliance with Building and Fire Code requirements and in conformance with the design, color selection and budget of the Byron Carlyle Theater Project, and the availability of the products and installation requirements necessary to comply with the project's construction schedule, the Property Management Director determined that the finish materials for these requirements that were submitted by Nutech Engineering Systems, Inc. were the best products and materials available to be used on the Byron Carlyle Theater Project.

After checking background references, plus licensing and insurance requirements, the Property Management Director determined that Nutech Engineering Systems, Inc., was the lowest and best responsive responsible bidder on the project. A contract was then prepared with Nutech Engineering Systems, Inc., in the amount of \$167,749 and was reviewed and form approved by the Legal Department on March 29, 2004. The contract was then signed by the contractor and executed by the Mayor and City Clerk as required.

The Administration recommends that the Mayor and Members of the City Commission of The City of Miami Beach ratify the Property Management Director's contract to Nutech Engineering Systems, Inc., in the amount of \$167,749 for the supply and installation of theater curtains, theater seating, aisle carpeting, aisle lighting, hard wall finishes, sound system, and all associated materials and equipment in the Byron Carlyle Theater.

JMG/RCM/FB/BAJ

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, RATIFYING A CONTRACT, IN THE AMOUNT OF \$167,749, WITH NUTECH ENGINEERING SYSTEMS, INC., FOR THE SUPPLY AND INSTALLATION OF THEATER CURTAINS, THEATER SEATING, AISLE CARPETING, AISLE LIGHTING, HARD WALL FINISHES, SOUND SYSTEM, AND ALL ASSOCIATED MATERIALS AND EQUIPMENT FOR THE BYRON CARLYLE THEATER.

WHEREAS, the Mayor and City Commission, at the November 28, 2001 City Commission meeting, adopted Resolution No. 2001-24677, which authorized the Property Management Director to serve as the Certified General Contractor for the design and renovation of the Byron Carlyle Theater; and

WHEREAS, during the programming and design of the interior finishes to be used in the Byron Carlyle Theater, it was determined that, due to the slope of the floor in the theater and the requirement to be in compliance with the Americans with Disabilities Act (ADA), and the applicable building and fire codes, many of the interior finishes would need to be custom built to meet the needs and design criteria of the existing conditions; and

WHEREAS, the Property Management Director exercised the authority given to him by the City Manager and City Commission, and prepared specification bid packages for different components of the interior finishes that reflected the exact needs to comply with the existing conditions of the building and the applicable code requirements; and

WHEREAS, after a specification bid package was complete, four firms that specialize in theater seating were contacted to provide quotes for the required scope of the work which resulted in four separate bid submittals for the project; and

WHEREAS, after a specification bid package was complete, three firms that specialize in theater curtains were contacted to provide quotes for the required scope of the work which resulted in two separate bid submittals for the project; and

WHEREAS, after a specification bid package was complete, five firms that specialize in theater sound systems were contacted to provide quotes for the required scope of the work which resulted in five separate bid submittals for the project; and

WHEREAS, the Property Management Director, after reviewing the bids, checking references, licensing, and insurance requirements determined that Nutech Engineering Systems, Inc., provided the lowest responsive responsible bids for each portion of the aforesaid work; and

WHEREAS, additional products and materials were submitted by vendors for other minor interior finishes for the Theater that were required to coordinate in style and color to meet the design criteria and for the review of the product's availability to meet the construction schedule and the project's budget; and

WHEREAS, the Property Management Director determined that the finish products and materials for these requirements that were submitted by Nutech Engineering Systems, Inc., were the best products and materials available to be used on the Byron Carlyle Theater Project; and

WHEREAS, a contract with Nutech Engineering Systems, Inc., was prepared and form approved by the Legal Department, and executed by the Mayor and City Clerk, as required for the supply and installation of theater curtains, theater seating, aisle carpeting, aisle lighting, hard wall finishes, sound system, and all associated materials and equipment in the Byron Carlyle Theater; and

WHEREAS, as required by Resolution No. 2001-24677, the Administration herein requests that the Mayor and City Commission herein ratify the aforestated contract; said contract deemed necessary to continue the prosecution of work on the Byron Carlyle Theater.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission herein ratify a contract, in the amount of \$167,749, with Nutech Engineering Systems, Inc., for the supply and installation of theater curtains, theater seating, aisle carpeting, aisle lighting, hard wall finishes, sound system, and all associated materials and equipment fort the Byron Carlyle Theater.

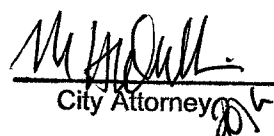
PASSED and ADOPTED this _____ of _____, 2004.

ATTEST:

CITY CLERK

MAYOR

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney

5-25-04

Date

CITY OF MIAMI BEACH PROPERTY MANAGEMENT DIVISION
AUDITORIUM SEATING AND AISLE LIGHTS
BYRON CARLYLE THEATRE
TABULATION SHEET

DESCRIPTION	NUTECH	CONTRACT SOLUTIONS	SERIES	TSI
Auditorium Seating W/ Aisle Lights	\$ 55,078.39	\$ 56,701.32	\$ 58,556.00	\$ 59,220.00 no lights

CITY OF MIAMI BEACH PROPERTY MANAGEMENT DIVISION
AUDITORIUM SOUND SYSTEM
BYRON CARLYLE THEATRE
TABULATION SHEET

DESCRIPTION	NUTECH ENGINEERING	BEACH SOUND	SOUTHERN TECHNICAL	HARRIS AUDIO SYSTEMS, INC.
Auditorium Sound System	\$ 24,603.29	\$ 53,282.68	\$ 55,058.97	\$ 63,378.67

PRO SOUND	
\$	105,700.00

**CITY OF MIAMI BEACH PROPERTY MANAGEMENT DIVISION
AUDITORIUM CURTAINS AND INSTALLATION
BYRON CARLYLE THEATRE
TABULATION SHEET**

DESCRIPTION	NUTECH	Kenney Drapery Associates, Inc	SECOA
Wall Curtains	\$ 32,182.50	\$ 34,950.00	not responsive

Byron Carlyle Theatre Renovation Project

Budget and Project Status Report As of March 25, 2004

Funding

<u>Date</u>	<u>Funding Source</u>	<u>Appropriated</u>	<u>Expended</u>	<u>Balance</u>
04/18/2001	General Fund Undesignated	\$ 500,000.00	\$500,000.00	
05/29/2002	Reallocation of CDBG funds			
	FY 00/01 NBDC Com. Façade	\$ 150,000.00	\$ 150,000.00	
	FY 01/02 NBDC Com. Façade	\$ 150,000.00	\$ 150,000.00	
	MBCDC Pres. & Rehab Prog.	\$ 100,000.00	\$ 92,456.14	
03/20/2002	Quality of Life (via NBDC)	\$ 150,000.00	\$ 150,000.00	
05/16/2001	Quality of Life (via NBDC)	\$ 150,000.00	\$ 148,278.84	
06/06/2002	Miami-Dade CDBG (via NBDC)	\$ 50,000.00	\$ 49,937.28	
06/13/2002	Miami-Dade Cultural Affairs Grant	\$ 16,096.00	\$ 15,748.00	
09/18/2002	State Cultural Facilities			
	Program Grant FY 01/02	\$ 460,000.00	\$ 459,999.81	
10/01/2003	Miami-Dade Cultural Affairs Capital Development Grant	\$ 12,500.00	-	
Total Funding:		\$ 1,738,596.00	\$ 1,716,420.07	\$ 22,175.93

Phase One: Lobby area converted into Office Space

Total Project Expenditures for Phase One.

	<u>Budget</u>	<u>Expended</u>	<u>Balance</u>
Property Management charge (construction of offices)		\$ 118,072.21	
Laumar Roofing (Roof and HVAC system replacement)		\$ 401,501.00	
Property Management (Maintenance, beginning of project)		\$ 40,000.00	
Sub-total Phase I	\$ 1,738,596.00	\$ 559,573.21	\$ 1,179,022.79

Phase Two: Theater Lobby and Performance space.

\$ 1,179,022.79

Restrooms, and Interior Finishes

Demolition

Lango Equipment (Demolition)	\$ 43,450.00	(ratified)
Lango Equipment (Additional Demolition)	\$ 5,800.00	(ratified)
Total	\$ 49,250.00	

Reports, Design, Plans review

ATC (Asbestos/ Environmental Reports)	\$ 785.00	
M.L.Cain & Assoc. (Appraisal report)	\$ 1,800.00	
Accurate Fire Sprinkler (Fire sprinkler system design)	\$ 3,500.00	
Federal Express	\$ 43.61	
Tri-City Electric Co. (Fire Alarm System Design)	\$ 3,200.00	
Olga V. Cordero, PE. (plans review, signed and seal)	\$ 4,950.00	
Total	\$ 14,278.61	

Fire Protection

Fire Controls Inc.(Fire Alarm Installation)	\$ 62,904.64	(ratified)
Falcon Fire Protection (Fire Sprinkler Installation)	\$ 106,418.00	(ratified)
Total	\$ 169,322.64	

Concrete Work

Luis E. Roca, Inc (Concrete form and pour services)	\$ 34,836.00	(ratified)
Total	\$ 34,836.00	

Interior Finishes

Lotspeich Company, Inc (acoustical ceilings and installation)	\$ 21,370.00	
Daltile (materials for restrooms tile)	\$ 10,739.51	
Farrey's Wholesale Hardware (Lobby Light fixtures)	\$ 8,245.00	
Casinos's Carpet (Projector room tile)	\$ 1,841.00	
Mardale (toilets partitions and accessories)	\$ 5,700.00	
Ricky's Doors (doors and specialty hardware)	\$ 18,126.00	

Byron Carlyle Theater
Budget Expenditure
Public Works Dept.
Property Mgt. Division
April 2004

Artistry in Glass (railings stairs, mezzanine, ramp, mirrors, etc)	\$ 41,455.60
Lobby Floors (Carpet and art design installation)	\$ 9,000.00
CPL Const. Inc (spray knockdown wall texture)	\$ 1,260.00
ArchiTile, Inc.(decorative bathrooms counters)	\$ 5,552.49
Total	\$ 123,289.60

Theater Equipment and Components

Theater Equipment (stage lighting and microphones material supply	\$ 49,937.09
Sound Concepts (Stage installation)	\$ 135,430.00
Miami Stagecraft (Stage Lighting Equipment and Materials)	\$ 58,300.00
Miami Stagecraft (Stage Lighting, Sound System Installation)	\$ 42,875.00
Kelly Benson Electric (Theater House Lights materials and installation)	\$ 24,340.00
NUTECH (seats, Curtains, Carpets, aisle lights..)	\$ 143,145.20
Sound Equipments (NUTECH)	\$ 24,603.29
Total	\$ 478,630.58

Miscellaneous

Waste Management (Portable Toilets)	\$ 235.56
IT (phones and computer hook-ups)	\$ 3,150.00
Plumbing Fixtures (Home Depot materials and fixtures)	\$ 4,972.52
Marnia Plumbing (Sanitary Sewer Lift Station Repairs)	\$ 24,924.00
DPC (duct insulation removal of asbestos)	\$ 1,000.00
Refri-Cool (HVAC materials)	\$ 9,024.23
Total	\$ 43,306.31

Internal Charges

Property Management Charges (Internal labor and materials) for HVAC, Electrical, Plumbing, Carpentry, Ceramic Tile Installation, and Painting charged to the project budget	\$ 243,933.22
Total	\$ 243,933.22

	<u>Phase Two Budget</u>	<u>Total Project Expenditures</u>	<u>Project Balance</u>
Sub-total Phase II	\$ 1,179,022.79	\$ 1,156,846.86	\$ 22,175.93

Work remaining to complete:

Site Clean up and Punch List Items	(Estimated Cost)	\$ 21,575.00
---------------------------------------	------------------	--------------

Projected Project Balance: \$ 600.93

The scope of work on the Phase II project is substantially complete and the TCO has been received.

Although the scope of work on the Phase II project is substantially complete, existing building maintenance, waterproofing, fire issues, and building exterior repairs that are beyond the scope of work of the Phase II project have and will require additional funding.

Byron Carlyle Theater
Budget Expenditure
Public Works Dept.
Property Mgt. Division
April 2004

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**CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY**



Condensed Title:

Ratification of a contract to Laumar Roofing Services, Inc., in the amount of \$49,745, to provide for pressure cleaning, preparation and sealing of existing cracks, and to apply waterproof primer and finish coating/paint to the exterior walls of the Byron Carlyle Theater Building.

Issue:

Shall the City Commission Ratify a contract to Laumar Roofing Services, Inc., in the amount of \$49,745?

Item Summary/Recommendation:

In accordance with Resolution No. 2001-24677 adopted by the City Commission on November 28th, 2001 the Administration, through its Property Management Director, is providing General Contracting services including bidding, the award of contracts for work, and change orders on the Byron Carlyle Theater project. Under the provisions of the Resolution, contracts and purchases exceeding \$25,000 must be brought back to the City Commission for Ratification. Emergency repair work, outside of the renovation budget was required to take care of water intrusion into the interior spaces of the building from surface and sediment cracks in the exterior plaster and decorative stone surfaces. After specifications were prepared to address the waterproofing needs of the Byron Carlyle Theater, three vendors provided quotes for the work. After reviewing the bids, references, and insurance requirements, the Property Management Director determined that Laumar Roofing Services, Inc., was the lowest responsive responsible bidder for the scope of work required and issued a contract for the execution of the work. Since the emergency scope of work was outside the renovation project, a different source of funds (other operating contingency) was used to fund the contract.

The Administration recommends that the Mayor and City Commission ratify a contract with Laumar Roofing Services, Inc., in the amount of \$49,745, to provide for pressure cleaning, preparation and sealing of existing cracks, and to apply waterproof primer and finish coating/paint to the exterior walls of the Byron Carlyle Theater Building.

Advisory Board Recommendation:

N/A

Financial Information:

Amount to be expended:

Source of Funds:		Amount	Account	Approved
<div style="border: 1px solid black; width: 50px; height: 30px; margin: 0 auto;"></div> Finance Dept.	1	\$49,745	# 161.6235.000343	
	2		(Other Operating Contingency)	
	3			
	Total	\$49,745		

City Clerk's Office Legislative Tracking:

Sign-Offs:

Department Director	Assistant City Manager	City Manager

AGENDA ITEM

C7E

DATE

6-9-04

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE, MIAMI BEACH, FLORIDA 33139

<http://ci.miami-beach.fl.us>



COMMISSION MEMORANDUM

TO: Mayor David Dermer and
Members of the City Commission

DATE: June 9, 2004

FROM: Jorge M. Gonzalez
City Manager

SUBJECT: A RESOLUTION OF THE MAYOR AND MEMBERS OF THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, RATIFYING A CONTRACT IN THE AMOUNT OF \$49,745 TO LAUMAR ROOFING SERVICES, INC., TO PROVIDE FOR PRESSURE CLEANING, PREPARATION AND SEALING OF EXISTING CRACKS, AND TO APPLY WATERPROOF ELASTOMERIC COATINGS/PAINT TO THE EXTERIOR WALLS OF THE BYRON CARLYLE THEATER.

ADMINISTRATION RECOMMENDATION

Ratify the resolution.

ANALYSIS

Due to the age and existing conditions of the exterior walls of the Byron Carlyle Theater Building, water is intruding into the building through surface and sediment cracks of the exterior plaster and decorative stone surfaces. Therefore, emergency repair work outside of the renovation budget was required to take care of the water intrusion into the interior spaces of the building. In order to correct the situation and protect the interior finishes of the building, the exterior of the building requires heavy pressure cleaning to expose any surface cracks that exist, the preparation and sealing of the cracks, and the application of elastomeric waterproof coatings/paint over the exterior wall surfaces. Since the emergency scope of work was outside the renovation project, a different source of funds (other operating contingency) was used to fund the contract.

The Mayor and City Commission, at the November 28, 2001 Commission meeting, adopted Resolution No. 2001-24677, which authorized the Property Management Director to serve as the Certified General Contractor for the renovations of the Byron Carlyle Theater. The Property Management Director exercised the authority given to Him by the City Manager and City Commission, and prepared specifications that were required to solicit bids for the emergency scope of work that was needed to stop water intrusion into the Byron Carlyle Theater building.

After completing the specifications, three firms that specialize in building waterproofing work were contacted to provide quotes for the project. Of the three firms contacted, all three submitted quotes for the project. After reviewing the quotes and after checking background references, plus licensing and insurance requirements, the Property Management Director determined that Laumar Roofing Services, Inc. was the lowest responsive responsible bidder on the project. A contract in the amount of \$49,745 was prepared and issued to Laumar Roofing Services, Inc., for the required work.

The Administration recommends that the Mayor and Members of the City Commission of the City of Miami Beach ratify the Property Management Director's contract to Laumar Roofing Services, Inc., in the amount of \$49,745, to provide for pressure cleaning, preparation and sealing of existing cracks, and to apply waterproof primer and finish coating/paint to the exterior walls of the Byron Carlyle Theater building.

JMG/RCM/FB/BAJ

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CITY OF MIAMI BEACH PROPERTY MANAGEMENT DIVISION
 WATERPROOFING PROJECT
 BYRON CARLYLE THEATRE
 TABULATION SHEET

DESCRIPTION	LAUMAR ROOFING Services, Inc	AMERICAN STANDARD ROOFING	ROOF SYSTEM SERVICES
Waterproofing project	\$49,745.00	\$53,215.00	\$53,500.00

RESOLUTION NO. _____

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION
OF THE CITY OF MIAMI BEACH, FLORIDA, RATIFYING A
CONTRACT, IN THE AMOUNT OF \$49,745, TO LAUMAR
ROOFING SERVICES, INC., TO PROVIDE FOR PRESSURE
CLEANING, PREPARATION AND SEALING OF EXISTING
CRACKS, AND TO APPLY WATERPROOF ELASTOMERIC
COATINGS/PAINT TO THE EXTERIOR WALLS OF THE
BYRON CARLYLE THEATER BUILDING.**

WHEREAS, due to existing surface and sediment cracks in the exterior plaster and decorative stone wall surfaces of the Byron Carlyle Theater Building, water is intruding inside the facility; and

WHEREAS, emergency work, outside of the renovation budget was required to take care of water intrusion into the interior spaces of the building from surface and sediment cracks in the exterior plaster and decorative stone surfaces.

WHEREAS, to stop water intrusion into the facility and to protect the interior finishes of the building requires pressure cleaning, preparation and sealing of existing cracks, and the application of waterproof elastomeric coating/paint to the exterior walls of the Byron Carlyle Theater Building; and

WHEREAS, the Mayor and City Commission, at the November 28, 2001 Commission meeting, adopted Resolution No. 2001-24677, which authorized the Property Management Director to serve as the Certified General Contractor for the renovations of the Byron Carlyle Theater (the Project); and

WHEREAS, the Property Management Director exercised the authority delegated to him by the City Manager and City Commission, and prepared specifications required to solicit quotes for the scope of work for the Project; and

WHEREAS, after the specifications were complete, three contractors that specialized in building waterproofing were contacted to provide bids for the scope of work which resulted in three responsive bids for the Project; and

WHEREAS, after reviewing the bids and insurance requirements, the Property Management Director determined that Laumar Roofing Services, Inc., was the lowest responsive responsible bidder for the scope of work for the Project; and

WHEREAS, a contract was issued to Laumar Roofing Services, Inc., in the amount of \$49,745, to provide for pressure cleaning, preparation and sealing of existing cracks, and to apply waterproof elastomeric coating/paint to the exterior walls of the Byron Carlyle Theater Building; and

WHEREAS, as required by Resolution No.2001-24677, the Administration herein requests that the Mayor and City Commission ratify the aforestated contract, which were deemed necessary to continue the work on the Byron Carlyle Theater Building.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby ratify a contract, in the amount of \$49,745, to Laumar Roofing Services, Inc., to provide for pressure cleaning, preparation and sealing of existing cracks, and to apply waterproof primer and finish coating/paint to the exterior walls of the Byron Carlyle Theater Building.

PASSED and ADOPTED THIS _____ day of _____ 2004.

ATTEST:

CITY CLERK

MAYOR

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

M. McQuill 6-30-04
City Attorney Date

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CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY



Condensed Title:

A Resolution to adopt and appropriate the Second Amendment to the Police Special Revenue Account Budget in the amount of \$12,000.

Issue:

Shall funds be provided for the purchase of miscellaneous items for the Miami Beach Police Department?

Item Summary/Recommendation:

Unclaimed evidence totaling \$12,000 has been in the custody of the Police Property Management Unit past the sixty (60) day waiting period. These funds have now been placed in the Police Special Revenue Account Fund, as provided in Resolution 90-19931, passed on March 7, 1990.

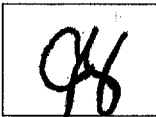
The Administration recommends that the Mayor and City Commission adopt and appropriate the Second Amendment to the Police Special Account Budget for Fiscal Year 2003/04.

Advisory Board Recommendation:


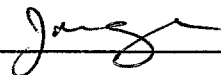
N/A

Financial Information:

Amount to be expended:

Source of Funds:		Amount	Account	Approved
 Finance Dept.	1		Special Revenue Account	
	2	\$ 12,000	195.8000.369993	
	3			
	4			
	Total	\$ 12,000		

Sign-Offs:

Department Director	Assistant City Manager	City Manager
 5/29		

AGENDA ITEM C7F
DATE 6-9-04

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.ci.miami-beach.fl.us



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: June 9, 2004

From: Jorge M. Gonzalez
City Manager

Subject: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ADOPTING AND APPROPRIATING THE SECOND BUDGET AMENDMENT TO THE POLICE SPECIAL REVENUE ACCOUNT FOR FISCAL YEAR 2003/04 IN THE AMOUNT OF \$12,000, SUCH ACCOUNT FUNDED BY UNCLAIMED EVIDENCE CURRENTLY HELD IN THE POLICE SPECIAL REVENUE ACCOUNT.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

Florida Statute 705.105 "Procedure for Unclaimed Evidence" provides that unclaimed evidence in the custody of the court from a criminal proceeding, or seized as evidence by and in the custody of a law enforcement agency, shall become the property of that law enforcement agency 60 days after the conclusion of the proceedings.

In March 1990, a special account was established titled "Police Special Revenue Account" in the Special Revenue Fund. Funds for this account are made available in the Police Property Management Unit, as unclaimed evidence, in accordance with Florida Statute 705.105 outlined above.

Unclaimed evidence totaling \$12,000 has been in the custody of the Police Property Management Unit past the sixty (60) day waiting period. These funds have now been placed in the Police Special Revenue Account Fund, as provided in Resolution 90-19931, passed on March 7, 1990.

The Administration recommends that the Mayor and City Commission adopt the Second Budget Amendment to the Police Special Revenue Account for Fiscal Year 2003/04, and appropriate the amount of \$12,000 to provide funds for the purchase of miscellaneous items for the Police Department listed on Exhibit "A".

JMG: DB:ic

RESOLUTION No. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ADOPTING AND APPROPRIATING THE SECOND BUDGET AMENDMENT TO THE POLICE SPECIAL REVENUE ACCOUNT FOR FISCAL YEAR 2003/04 IN THE AMOUNT OF \$12,000, SUCH ACCOUNT FUNDED BY UNCLAIMED EVIDENCE CURRENTLY HELD IN THE POLICE SPECIAL REVENUE ACCOUNT.

WHEREAS, Section 705.105, Florida Statutes, "Procedures for Unclaimed Evidence", provides that title to unclaimed evidence in the custody of the court from a criminal proceeding or seized as evidence by and in the custody of a law enforcement agency, shall vest permanently in the law enforcement agency sixty (60) days after the conclusion of the proceedings; and

WHEREAS, such funds have been in the custody of the Police Property Management Unit past the sixty (60) day waiting period, and these funds have now been placed in the Police Special Revenue Account Fund, as provided by Resolution No. 90-19931, adopted on March 7, 1990, as follows:

CURRENT BUDGET	INCREASE	AMENDED BUDGET
\$ 46,900	\$ 12,000	\$ 58,900.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that \$12,000, which is currently being held in the Police Special Revenue Account, be appropriated for the Second Budget Amendment to the Police Special Revenue Budget for the 2003/04 fiscal year for the purchase of items listed on Exhibit "A".

PASSED AND ADOPTED THIS _____ DAY OF _____, 2004

MAYOR

ATTEST BY:

City Clerk

Funding approved:



Office of Management
and Budget

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

 5-28-04

City Attorney Date

EXHIBIT "A"

**MIAMI BEACH POLICE DEPARTMENT
SPECIAL REVENUE ACCOUNT
SECOND BUDGET AMENDMENT
FISCAL YEAR 2003/04**

PROMOTIONAL ACTIVITIES, Hip Hop Symposium \$ 6,900

related to law enforcement programs sponsored by the Chief of Police including items which are not funded such as employee recognitions. These funds are also used for other miscellaneous expenses related to activities for Police Memorial Services, special youth programs, and other philanthropic, community organizations.

ADDITIONAL MISCELLANEOUS OPERATING SUPPLIES, EQUIPMENT \$ 5,100

AND/OR BUILDING ITEMS as needed which were not included in the Department's annual budget request. Items previously appropriated using Special Revenue funds include electronic embossing seal, replacement shredder, commercial refrigerator, microwave ovens, miscellaneous technology consumables, etc. date and time stamps

TOTAL \$ 12,000

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R7 - Resolutions

- C7G A Resolution Adopting And Appropriating The Third Amendment To The Police Confiscation Trust Fund Budget For The Fiscal Year 2003/04 In The Amount Of \$_____ To Be Funded From The Proceeds Of State (\$_____) And Federal-Justice (\$_____) Confiscated Funds.
(Police Department)

(Memorandum and Resolution to be Submitted in Supplemental)

AGENDA ITEM C7G
DATE 6-9-04

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CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY



Condensed Title:

A Joint Participation Agreement (JPA) with the Florida Department of Transportation; An interlocal agreement with the Metropolitan Planning Organization; Authorization for a RFQ for the preparation of BODR and design services for the 16th Street operational improvements project.

Issue:

Shall the City Commission approve the JPA, Interlocal Agreement, and authorize the RFQ for the 16th Street Operational Improvements/Enhancements project.


Item Summary/Recommendation:

Three resolutions concerning the improvements/enhancements would approve and authorize:

1. The execution of the required Interlocal Agreement with the MPO for the \$75,000 master plan/BODR phase of the 16th Street project. \$30,000 of Concurrency Mitigation Funding were previously approved. \$45,000 in City funds will be advanced for later reimbursement by the MPO grant.
2. The execution of a JPA with FDOT in the amount of \$120,000 for design plans. \$100,000 provided by FDOT and \$20,000 previously appropriated from Concurrency Mitigation Funding. An additional \$70,000 in Concurrency Mitigation funds will be required to complete the \$190,000 design. \$100,000 in City funds will be advanced for later reimbursement by the FDOT grant.
3. To issue a Request for Qualifications (RFQ) from planning and engineering firms wishing to perform Phase I-BODR and Phase II design services for a 16th Street Operational Improvements/Enhancements project. The Administration recommends approving the Resolutions.

Advisory Board Recommendation:

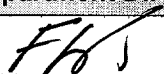


Financial Information:

Source of Funds:  Finance Dept.		Amount	Account	Approved
	1	\$100,000	Advanced by City / reimb by FDOT	
	2	\$ 45,000	Advanced by City / reimb by MPO	
	3	\$120,000	Concurrency Mitig. / SoBe Funds	
	4			
	Total	\$265,000	For BODR and Design	

City Clerk's Office Legislative Tracking:

Robert Halfhill

Sign-Offs:

Department Director	Assistant City Manager	City Manager
		

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



COMMISSION MEMORANDUM

To: Mayor David Dermer and
Members of the City Commission

Date: June 9, 2004

From: Jorge M. Gonzalez
City Manager

Subject: A JOINT PARTICIPATION AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT); AN INTERLOCAL AGREEMENT WITH THE METROPOLITAN PLANNING ORGANIZATION: AUTHORIZATION FOR AN RFQ FOR THE PREPARATION OF BODR AND DESIGN SERVICES FOR 16TH STREET OPERATIONAL IMPROVEMENTS PROJECT.

1. A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE MIAMI-DADE COUNTY METROPOLITAN PLANNING ORGANIZATION (MPO) AND THE CITY OF MIAMI BEACH, IN THE AMOUNT OF \$75,000, FOR THE PREPARATION OF A MASTER PLAN/BASIS OF DESIGN REPORT (BODR) FOR THE 16TH STREET OPERATIONAL IMPROVEMENTS / ENHANCEMENT PROJECT; THE FUNDING SPLIT BEING \$45,000 IN MPO'S MUNICIPAL GRANT PROGRAM FUNDS, AND \$30,000 IN CONCURRENCY MITIGATION PROGRAM/SOUTH BEACH FUNDS, AS PREVIOUSLY APPROPRIATED BY RESOLUTION NO. 2002-24907, DATED JUNE 19, 2002; AND FURTHER AUTHORIZING THE ADVANCEMENT OF \$45,000 IN CITY FUNDS FOR SUBSEQUENT REIMBURSEMENT BY THE MPO FUNDS.

2. A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A JOINT PARTICIPATION AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT), IN THE AMOUNT OF \$120,000, FOR PREPARATION OF DESIGN PLANS FOR A 16TH STREET OPERATIONAL IMPROVEMENTS/ENHANCEMENT PROJECT; THE FUNDING SPLIT BEING \$100,000 IN FDOT'S TRANSPORTATION OUTREACH PROGRAM (TOP) FUNDS AND \$20,000 IN CONCURRENCY MITIGATION/SOUTH BEACH (CM) FUNDS, AS PREVIOUSLY APPROPRIATED BY RESOLUTION NO. 2001-24587, DATED SEPTEMBER 20, 2001; AUTHORIZING THE APPROPRIATION OF AN ADDITIONAL \$70,000 IN CM FUNDS AS NEEDED TO FUND THE ESTIMATED \$190,000 DESIGN COST; AND FURTHER AUTHORIZING THE ADVANCEMENT OF \$100,000 IN CITY FUNDS, FOR SUBSEQUENT REIMBURSEMENT BY THE TOP GRANT FUNDS.

3. A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE ADMINISTRATION TO ISSUE REQUESTS FOR QUALIFICATION (RFQ) FROM PROFESSIONAL PLANNING AND ENGINEERING FIRMS INTERESTED IN PROVIDING PHASE I - MASTER PLAN / BASIS OF DESIGN REPORT (BODR) AND PHASE II DESIGN SERVICES FOR A PROPOSED SIXTEENTH STREET OPERATIONAL IMPROVEMENTS AND ENHANCEMENT PROJECT.

ADMINISTRATION RECOMMENDATION

Adopt the Resolutions.

ANALYSIS

Resolution No. 2002-24907, dated June 19, 2002, authorized the City to submit a \$75,000 grant application to the Metropolitan Planning Organization's Municipal Grant Program for the preparation of a master plan/basis of design report for a proposed 16th Street Operational Improvements/Enhancement Project. This is Project #33 of the Miami Beach Municipal Mobility Plan (MMP) Project Bank.

Resolution No. 2002-24907 also authorized, upon grant award, the appropriation of \$45,000 in MPO funds matched by \$30,000 in Concurrency Mitigation Program/South Beach funds. The Administration seeks approval and execution of the required interlocal agreement with the MPO for the \$75,000 master plan/BODR phase of the project, as well as the advancement of \$45,000 in City funds for subsequent reimbursement by the MPO grant funds.

Resolution No. 2001-24587, dated September 20, 2001 authorized the City to submit a grant application to the State's Transportation Outreach Program (TOP) for the preparation of design plans for a proposed 16th Street Operational Improvements/ Enhancement Project, also known as Project #33 of the Miami Beach Municipal Mobility Plan. The same Resolution authorized, upon grant award, the appropriation of \$100,000 in TOP funds and \$20,000 in Concurrency Mitigation/South Beach funds. Execution of this grant would require the City to advance \$100,000 for subsequent FDOT reimbursement.

The State Legislature's failure to fund the TOP program in 2002 and 2003 delayed the execution of the required Joint Participation Agreement (JPA) with the Florida Department of Transportation (FDOT).

Due to this delay, updated cost estimates have identified the need for additional funding. The administration is seeking the appropriation of an additional \$70,000 in CM funds to fund the updated \$190,000 cost of preparing the design plans for the 16th Street Project. The design will include plan documents for the following project elements:

- Operational and safety improvements to the corridor, intersections and signalization;
- Improved drainage; roadway reconstruction and / or milling, resurfacing and striping;

- Sidewalks and curb/gutter reconstruction and/or improvements, as needed;
- Corridor enhancements such as traffic calming, bulb-outs, pedestrian crosswalks, and shade landscaping; and
- A bicycle lane that will connect the South Beach neighborhoods to a developing beach bikeway system.

Authorization is also requested to issue a Request for Qualifications (RFQ) from planning and engineering firms wishing to perform Phase I-BODR and Phase II- design services for a 16th Street Operational Improvements/Enhancements project, also known as Project #33 of the Miami Beach Municipal Mobility Plan (MMP) Project Bank.

The 16th Street Corridor Project is an essential component of the improvement/enhancement necessary to maintain safe and adequate traffic flow in a street which is operating as a collector because of the significant increase in traffic volume.

The Administration recommends approval of the Resolutions.

JG/RM/FB/RH/

Attachments:

Joint Participation Agreement with FDOT at \$120,000, Scope of Services included.
Resolution No. 2001-24587, dated September 20, 2001
Interlocal Agreement with the MDC MPO at \$75,000, Scope of Services included.
Enabling Resolution No. 2002-24907, dated June 19, 2002

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
PUBLIC TRANSPORTATION
JOINT PARTICIPATION AGREEMENT

725-030-06
PUBLIC TRANSPORTATION
06/03
Page 1 of 12

Financial Project No.: <u>41342212401</u> (item-segment-phase-sequence)	Fund: <u>PT</u>	FLAIR Approp.: <u>085573</u>
Contract No.: <u>ANH65</u>	Function: <u>215</u>	FLAIR Obj.: <u>790069</u>
Catalog of Federal Domestic Assistance Number: _____	Federal No.: _____	Org. Code: <u>55062020629</u>
		Vendor No.: <u>VF596000372005</u>
Catalog of State Financial Assistance Number: _____		

THIS AGREEMENT, made and entered into this _____ day of _____,
by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida,
hereinafter referred to as the Department, and City of Miami Beach
1700 Convention Center Drive, Miami Beach, Florida 33139
hereinafter referred to as Agency.

WITNESSETH:

WHEREAS, the Agency has the authority to enter into said Agreement and to undertake the project hereinafter described, and the Department has been granted the authority to function adequately in all areas of appropriate jurisdiction including the implementation of an integrated and balanced transportation system and is authorized under 334.044

Florida Statutes, to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations herein, the parties agree as follows:

1.00 Purpose of Agreement: The purpose of this Agreement is

and as further described in Exhibit(s) A,B,C, attached hereto and by this reference made a part hereof, hereinafter referred to as the project, and to provide Departmental financial assistance to the Agency and state the terms and conditions upon which such assistance will be provided and the understandings as to the manner in which the project will be undertaken and completed.

2.00 Accomplishment of the Project

2.10 General Requirements: The Agency shall commence, and complete the project as described in Exhibit "A" attached hereto and by this reference made a part hereof, with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws.

2.20 Pursuant to Federal, State, and Local Law: In the event that any election, referendum, approval, permit, notice, or other proceeding or authorization is requisite under applicable law to enable the Agency to enter into this Agreement or to undertake the project hereunder, or to observe, assume or carry out any of the provisions of the Agreement, the Agency will initiate and consummate, as provided by law, all actions necessary with respect to any such matters so requisite.

2.30 Funds of the Agency: The Agency shall initiate and prosecute to completion all proceedings necessary including federal aid requirements to enable the Agency to provide the necessary funds for completion of the project.

2.40 Submission of Proceedings, Contracts and Other Documents: The Agency shall submit to the Department such data, reports, records, contracts and other documents relating to the project as the Department may require as listed in Exhibit "C" attached hereto and by this reference made a part hereof.

3.00 Project Cost: The total estimated cost of the project is \$ 120,000. This amount is based upon the estimate summarized in Exhibit "B" attached hereto and by this reference made a part hereof. The Agency agrees to bear all expenses in excess of the total estimated cost of the project and any deficits involved.

4.00 Department Participation: The Department agrees to maximum participation, including contingencies, in the project in the amount of \$ 100,000 as detailed in Exhibit "B", or in an amount equal to the percentage(s) of total project cost shown in Exhibit "B", whichever is less.

4.10 Project Cost Eligibility : Project costs eligible for State participation will be allowed only from the effective date of this agreement. It is understood that State participation in eligible project costs is subject to:

- (a) Legislative approval of the Department's appropriation request in the work program year that the project is scheduled to be committed;
- (b) Availability of funds as stated in paragraph 17.00 of this Agreement;
- (c) Approval of all plans, specifications, contracts or other obligating documents and all other terms of this Agreement;
- (d) Department approval of the project scope and budget (Exhibits A & B) at the time appropriation authority becomes available.

4.20 Front End Funding : Front end funding ☐ is ☒ is not applicable. If applicable, the Department may initially pay 100% of the total allowable incurred project costs up to an amount equal to its total share of participation as shown in paragraph 4.00.

5.00 Retainage : Retainage ☐ is ☒ is not applicable. If applicable, _____ percent of the Department's total share of participation as shown in paragraph 4.00 is to be held in retainage to be disbursed, at the Department's discretion, on or before the completion of the final project audit.

6.00 Project Budget and Payment Provisions:

6.10 The Project Budget: A project budget shall be prepared by the Agency and approved by the Department. The Agency shall maintain said budget, carry out the project and shall incur obligations against and make disbursements of project funds only in conformity with the latest approved budget for the project. No budget increase or decrease shall be effective unless it complies with fund participation requirements established in paragraph 4.00 of this Agreement and is approved by the Department Comptroller.

6.20 Payment Provisions: Unless otherwise allowed under paragraph 4.20, payment will begin in the year the project or project phase is scheduled in the work program as of the date of the agreement. Payment will be made for actual costs incurred as of the date the invoice is submitted with the final payment due upon receipt of a final invoice.

7.00 Accounting Records:

7.10 Establishment and Maintenance of Accounting Records: The Agency shall establish for the project, in conformity with requirements established by Department's program guidelines/procedures and "Principles for State and Local Governments", separate accounts to be maintained within its existing accounting system or establish independent accounts. Such accounts are referred to herein collectively as the "project account". Documentation of the project account shall be made available to the Department upon request any time during the period of the Agreement and for three years after final payment is made.

7.20 Funds Received Or Made Available for The Project: The Agency shall appropriately record in the project account, and deposit in a bank or trust company which is a member of the Federal Deposit Insurance Corporation, all payments received by it from the Department pursuant to this Agreement and all other funds provided for, accruing to, or otherwise received on account of the project, which Department payments and other funds are herein collectively referred to as "project funds". The Agency shall require depositories of project funds to secure continuously and fully all project funds in excess of the amounts insured under federal plans, or under State plans which have been approved for the deposit of project funds by the Department, by the deposit or setting aside of collateral of the types and in the manner as prescribed by State Law for the security of public funds, or as approved by the Department.

7.30 Costs Incurred for the Project: The Agency shall charge to the project account all eligible costs of the project. Costs in excess of the latest approved budget or attributable to actions which have not received the required approval of the Department shall not be considered eligible costs.

7.40 Documentation of Project Costs: All costs charged to the project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, contracts, and vouchers evidencing in proper detail the nature and propriety of the charges.

7.50 Checks, Orders, and Vouchers: Any check or order drawn by the Agency with respect to any item which is or will be chargeable against the project account will be drawn only in accordance with a properly signed voucher then on file in the office of the Agency stating in proper detail the purpose for which such check or order is drawn. All checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the project shall be clearly identified, readily accessible, and, to the extent feasible, kept separate and apart from all other such documents.

7.60 Audit Reports: In addition to the requirements below, the Agency agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department, including but not limited to site visits and limited scope audits. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the State Comptroller or Auditor General. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of three years from the date the audit report is issued, and shall allow the Department access to such records and working papers upon request. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any state agency inspector general, the Auditor General, or any other state official.

7.61 Federal Audit: In the event the Agency expends a total of \$300,000 or more in Federal awards in its fiscal year, the Agency must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133. Federal awards are to be identified using the Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, and name of the awarding Federal agency. If the Agency expends less than \$300,000 this audit is not required and if the Agency elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, the cost of the audit must be paid from non-Federal funds.

The Agency agrees to allow the Department or an independent auditor of the Department, the State Comptroller, and the Auditor General access to the Agency's records and financial statements as may be necessary for complying with the requirements of 31 U.S.C. 7501 et seq.

Pursuant to OMB Circular A-133, Subpart C, .320(d), the Agency shall provide a copy of the reporting package and any management letters to the Department, or copies of audit reports for audits conducted in accordance with OMB Circular A-133, to the Department and to:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

7.62 State Audit: In the event that the Agency expends a total of \$300,000 or more in State awards in its fiscal year, the Agency must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes and the applicable rules of the Executive Office of the Governor, the State Comptroller, and the Auditor General. In determining the State awards expended in its fiscal year, the Agency shall consider all sources of State awards except State awards received for Federal program matching requirements which shall be excluded from consideration. State awards will be identified using the Catalog of State Financial Assistance (CSFA) title and number, award number and year, and name of the awarding State agency. If the Agency expends less than \$300,000, this audit is not required and if the Agency elects to have an audit conducted in accordance with the provisions of Section 215.97, F.S., the cost of the audit must be paid from non-State funds.

The Agency agrees to allow the Department, the State Comptroller, and the Auditor General access to records and independent auditor's working papers, as necessary for complying with the requirements of Section 215.97, F.S.

The Agency shall provide annual financial reporting package of audits prepared in accordance with Section 215.97, F.S., and applicable Rules of the Auditor General to the Department and to:

State of Florida Auditor General
Room 574, Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32302-1450

7.63 Other Requirements: If an audit discloses any significant audit findings relating to any award, including material noncompliance with individual project compliance requirements or reportable conditions in internal controls of the Agency, the Agency shall submit as part of the audit package to the Department a plan for corrective action to eliminate such audit findings or a statement describing the reasons that corrective action is not necessary. The Agency shall take timely and appropriate corrective action to any audit findings, recommendations, and corrective action plans.

7.70 Insurance: Execution of this Joint Participation Agreement constitutes a certification that the Agency has and will maintain the ability to repair or replace any project equipment or facilities in the event of loss or damage due to any accident or casualty for the useful life of such equipment or facilities. In the event of the loss of such equipment or facilities, the Agency shall either replace the equipment or facilities or reimburse the Department to the extent of its interest in the lost equipment or facility.

In the event this Agreement is for purchase of land or for the construction of infrastructure such as airport runways the Department may waive or modify this section with an Exhibit "C".

8.00 Requisitions and Payments:

8.10 Action by the Agency: In order to obtain any Department funds, the Agency shall file with the Department of Transportation, District Six Public Transportation Office 602 South Miami Avenue, FL, 33130 its requisition on a form or forms prescribed by the Department, and any other data pertaining to the project account (as defined in paragraph 7.10 hereof) to justify and support the payment requisitions.

8.11 Invoices for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.

8.12 Invoices for any travel expenses shall be submitted in accordance with Chapter 112.061, F.S. The Department may establish rates lower than the maximum provided in Chapter 112.061, F.S.

8.13 For real property acquired, submit;

- (1) the date the Agency acquired the real property,
- (2) a statement by the Agency certifying that the Agency has acquired said real property, and actual consideration paid for real property.
- (3) a statement by the Agency certifying that the appraisal and acquisition of the real property together with any attendant relocation of occupants was accomplished in compliance with all federal laws, rules and procedures required by any federal oversight agency and with all state laws, rules and procedures that may apply to the Agency acquiring the real property.

8.20 The Department's Obligations: Subject to other provisions hereof, the Department will honor such requisitions in amounts and at times deemed by the Department to be proper to ensure the carrying out of the project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect by notice in writing not to make a payment on the project if:

8.21 Misrepresentation: The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof, or in or with respect to any document or data furnished therewith or pursuant hereto;

8.22 Litigation: There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the project, the Agreement, or payments to the project;

8.23 Approval by Department: The Agency shall have taken any action pertaining to the project which, under this agreement, requires the approval of the Department or has made related expenditures or incurred related obligations without having been advised by the Department that same are approved;

8.24 Conflict of Interests: There has been any violation of the conflict of interest provisions contained herein; or

8.25 Default: The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

8.26 Federal Participation (If Applicable): Any federal agency providing federal financial assistance to the project suspends or terminates federal financial assistance to the project. In the event of suspension or termination of federal financial assistance, the Agency will reimburse the Department for all disallowed costs.

8.30 Disallowed Costs: In determining the amount of the payment, the Department will exclude all projects costs incurred by the Agency prior to the effective date of this Agreement, costs which are not provided for in the latest approved budget for the project, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department.

8.40 Payment Offset: If, after project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this agreement, the Department may offset such amount from payments due for work or services done under any public transportation joint participation agreement which it has with the Agency owing such amount if, upon demand, payment of the amount is not made within sixty (60) days to the Department. Offsetting amounts shall not be considered a breach of contract by the Department.

9.00 Termination or Suspension of Project:

9.10 Termination or Suspension Generally: If the Agency abandons or, before completion, finally discontinues the project; or if, by reason of any of the events or conditions set forth in paragraphs 8.21 to 8.26 inclusive, or for any other reason, the commencement, prosecution, or timely completion of the project by the Agency is rendered improbable, infeasible, impossible, or illegal, the Department will, by written notice to the Agency, suspend any or all of its obligations under this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected, or the Department may terminate any or all of its obligations under this Agreement.

9.11 Action Subsequent to Notice of Termination or Suspension. Upon receipt of any final termination or suspension notice under this paragraph, the Agency shall proceed promptly to carry out the actions required therein which may include any or all of the following: (1) necessary action to terminate or suspend, as the case may be, project activities and contracts and such other action as may be required or desirable to keep to the minimum the costs upon the basis of which the financing is to be computed; (2) furnish statement of the project activities and contracts, and other undertakings the cost of which are otherwise includable as project costs; and (3) remit to the Department such portion of the financing and any advance payment previously received as is determined by the Department to be due under the provisions of the Agreement. The termination or suspension shall be carried out in conformity with the latest schedule, plan, and budget as approved by the Department or upon the basis of terms and conditions imposed by the Department upon the failure of the Agency to furnish the schedule, plan, and budget within a reasonable time. The approval of a remittance by the Agency or the closing out of federal financial participation in the project shall not constitute a waiver of any claim which the Department may otherwise have arising out of this Agreement.

9.12 The Department reserves the right to unilaterally cancel this Agreement for refusal by the contractor or Agency to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, F.S. and made or received in conjunction with this Agreement.

10.00 Remission of Project Account Upon Completion of Project: Upon completion of the project, and after payment, provision for payment, or reimbursement of all project costs payable from the project account is made, the Agency shall remit to the Department its share of any unexpended balance in the project account.

11.00 Audit and Inspection: The Agency shall permit, and shall require its contractors to permit, the Department's authorized representatives to inspect all work, materials, payrolls, records; and to audit the books, records and accounts pertaining to the financing and development of the project.

12.00 Contracts of the Agency:

12.10 Third Party Agreements: Except as otherwise authorized in writing by the Department, the Agency shall not execute any contract or obligate itself in any manner requiring the disbursement of Department joint participation funds, including consultant, construction or purchase of commodities contracts or amendments thereto, with any third party with respect to the project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department as provided in paragraph 8.23. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same.

12.20 Compliance with Consultants' Competitive Negotiation Act: It is understood and agreed by the parties hereto that participation by the Department in a project with an Agency, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the Agency complying in full with provisions of Chapter 287, F.S., Consultants' Competitive Negotiation Act. At the discretion of the Department, the Agency will involve the Department in the Consultant Selection Process for all contracts. In all cases, the Agency's Attorney shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.

12.30 Disadvantaged Business Enterprise (DBE) Policy and Obligation:

12.31 DBE Policy: It is the policy of the Department that disadvantaged business enterprises as defined in 49 CFR Part 26, as amended, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of 49 CFR Part 26, as amended, apply to this Agreement.

12.32 DBE Obligation: The Agency and its contractors agree to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26, as amended, have the maximum opportunity to participate in the performance of contracts and this Agreement. In this regard, all recipients, and contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26, as amended, to ensure that the Disadvantaged Business Enterprises have the maximum opportunity to compete for and perform contracts. Grantees, recipients and their contractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of Department assisted contracts.

13.00 Restrictions, Prohibitions, Controls, and Labor Provisions:

13.10 Equal Employment Opportunity: In connection with the carrying out of any project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, creed, color, sex or national origin. The Agency will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, age, creed, color, sex, or national origin. Such action shall include, but not be limited to, the following: Employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Agency shall insert the foregoing provision modified only to show the particular contractual relationship in all its contracts in connection with the development or operation of the project, except contracts for standard commercial supplies or raw materials, and shall require all such contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the project involves installation, construction, demolition, removal, site improvement, or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

13.20 Title VI - Civil Rights Act of 1964: Execution of this Joint Participation Agreement constitutes a certification that the Agency will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et. seq.), the Regulations of the Federal Department of Transportation issued thereunder, and the assurance by the Agency pursuant thereto.

13.30 Title VIII - Civil Rights Act of 1968: Execution of this Joint Participation Agreement constitutes a certification that the Agency will comply with all the requirements imposed by Title VIII of the Civil Rights Act of 1968, 42 USC 3601, et seq., which among other things, prohibits discrimination in housing on the basis of race, color, national origin, creed, sex, and age.

13.40 Americans with Disabilities Act of 1990 (ADA): Execution of this Joint Participation Agreement constitutes a certification that the Agency will comply with all the requirements imposed by the ADA (42 U.S.C. 12102, et. seq.), the regulations of the federal government issued thereunder, and the assurance by the Agency pursuant thereto.

13.50 Prohibited Interests: Neither the Agency nor any of its contractors or their subcontractors shall enter into any contract, subcontract, or arrangement in connection with the project or any property included or planned to be included in the project, in which any member, officer, or employee of the Agency during his tenure or for two years thereafter has any interest, direct or indirect. If any such present or former member, officer, or employee involuntarily acquires or had acquired prior to the beginning of his tenure any such interest, and if such interest is immediately disclosed to the Agency, the Agency with prior approval of the Department, may waive the prohibition contained in this subsection: Provided, that any such present member, officer or employee shall not participate in any action by the Agency relating to such contract, subcontract, or arrangement. The Agency shall insert in all contracts entered into in connection with the project or any property included or planned to be included in any project, and shall require its contractors to insert in each of their subcontracts, the following provision:

"No member, officer, or employee of the Agency during his tenure or for two years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof."
The provisions of this subsection shall not be applicable to any agreement between the Agency and its fiscal depositories, or to any agreement for utility services the rates for which are fixed or controlled by a Governmental agency.

13.60 Interest of Members of, or Delegates to, Congress: No member or delegate to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising therefrom.

14.00 Miscellaneous Provisions:

14.10 Environmental Pollution: Execution of this Joint Participation Agreement constitutes a certification by the Agency that the project will be carried out in conformance with all applicable environmental regulations including the securing of any applicable permits. The Agency will be solely responsible for any liability in the event of non-compliance with applicable environmental regulations, including the securing of any applicable permits, and will reimburse the Department for any loss incurred in connection therewith.

14.20 Department Not Obligated to Third Parties: The Department shall not be obligated or liable hereunder to any party other than the Agency.

14.30 When Rights and Remedies Not Waived: In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist, on the part of the Agency, and the making of such payment by the Department while any such breach or default shall exist shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

14.40 How Agreement Is Affected by Provisions Being Held Invalid: If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance the remainder would then continue to conform to the terms and requirements of applicable law.

14.50 Bonus or Commission: By execution of the Agreement the Agency represents that it has not paid and, also, agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

14.60 State or Territorial Law: Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision thereof, perform any other act or do any other thing in contravention of any applicable State law: Provided, that if any of the provisions of the Agreement violate any applicable State law, the Agency will at once not the Department in writing in order that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the project.

14.70 Use and Maintenance of Project Facilities and Equipment: The Agency agrees that the project facilities and equipment will be used by the Agency to provide or support public transportation for the period of the useful life of such facilities and equipment as determined in accordance with general accounting principles and approved by the Department. The Agency further agrees to maintain the project facilities and equipment in good working order for the useful life of said facilities or equipment.

14.71 Property Records: The Agency agrees to maintain property records, conduct physical inventories and develop control systems as required by 49 CFR Part 18, when applicable.

14.80 Disposal of Project Facilities or Equipment: If the Agency disposes of any project facility or equipment during its useful life for any purpose except its replacement with like facility or equipment for public transportation use, the Agency will comply with the terms of 49 CFR Part 18 relating to property management standards. The Agency agrees to remit to the Department a proportional amount of the proceeds from the disposal of the facility or equipment. Said proportional amount shall be determined on the basis of the ratio of the Department financing of the facility or equipment as provided in this Agreement.

14.90 Contractual Indemnity: To the extent provided by law, the Agency shall indemnify, defend, and hold harmless the Department and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the Agency, its agents, or employees, during the performance of the Agreement, except that neither the Agency, its agents, or its employees will be liable under this paragraph for any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the Department or any of its officers, agents, or employees during the performance of the Agreement.

When the Department receives a notice of claim for damages that may have been caused by the Agency in the performance of services required under this Agreement, the Department will immediately forward the claim to the Agency. The Agency and the Department will evaluate the claim and report their findings to each other within fourteen (14) working days and will jointly discuss options in defending the claim. After reviewing the claim, the Department will determine whether to require the participation of the Agency in the defense of the claim or to require that the Agency defend the Department in such claim as described in this section. The Department's failure to promptly notify the Agency of a claim shall not act as a waiver of any right herein to require the participation in or defense of the claim by Agency. The Department and the Agency will each pay its own expenses for the evaluation, settlement negotiations, and trial, if any. However, if only one party participates in the defense of the claim at trial, that party is responsible for all expenses at trial.

15.00 Plans and Specifications: In the event that this Agreement involves the purchasing of capital equipment or the constructing and equipping of facilities, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the project. The Department will review all plans and specifications and will issue to the Agency written approval with any approved portions of the project and comments or recommendations concerning any remainder of the project deemed appropriate. After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Agency written approval with said remainder of the project. Failure to obtain this written approval shall be sufficient cause for nonpayment by the Department as provided in paragraph 8.23.

16.00 Project Completion, Agency Certification: The Agency will certify in writing on or attached to the final invoice, that the project was completed in accordance with applicable plans and specifications, is in place on the Agency facility, that adequate title is in the Agency and that the project is accepted by the Agency as suitable for the intended purpose.

17.00 Appropriation of Funds:

17.10 The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

17.20 Multi-Year Commitment: In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Chapter 339.135(6)(a), F.S., are hereby incorporated: "(a) The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of 25,000 dollars and which have a term for a period of more than 1 year."

18.00 Expiration of Agreement: The Agency agrees to complete the project on or before March 31, 2006. If the Agency does not complete the project within this time period, this Agreement will expire unless an extension of the time period is requested by the Agency and granted in writing by the Project Manager/Director of Planning. Expiration of this Agreement will be considered termination of the project and the procedure established in paragraph 9.00 of this Agreement shall be initiated.

18.10 Final Invoice: The Agency must submit the final invoice on this project to the Department within 120 days after the expiration of this Agreement. Invoices submitted after the 120 day time period will not be paid.

19.00 Agreement Format: All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

20.00 Execution of Agreement: This Agreement may be simultaneously executed in a minimum of two counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one in the same instrument.

21.00 Restrictions on Lobbying:

21.10 Federal: The Agency agrees that no federal appropriated funds have been paid or will be paid by or on behalf of the Agency, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

If any funds other than federal appropriated funds have been paid by the Agency to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Joint Participation Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Agency shall require that the language of this section be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

21.20 State: No funds received pursuant to this contract may be expended for lobbying the Legislature or a state agency.

22.00 Vendors Rights: Vendors (in this document identified as Agency) providing goods and services to the Department should be aware of the following time frames. Upon receipt, the Department has five (5) working days to inspect and approve the goods and services unless the bid specifications, purchase order or contract specifies otherwise. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved.

If a payment is not available within 40 days after receipt of the invoice and receipt, inspection and approval of goods and services, a separate interest penalty in accordance with Section 215.422(3)(b), F.S. will be due and payable, in addition to the invoice amount to the Agency. The interest penalty provision applies after a 35 day time period to health care providers, as defined by rule. Interest penalties of less than one (1) dollar will not be enforced unless the Agency requests payment. Invoices which have to be returned to an Agency because of vendor preparation errors will result in delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agencies who may be experiencing problems in obtaining timely payment(s) from the Department. The Vendor Ombudsman may be contacted at (850)410-9724 or by calling the Department of Financial Services Hotline, 1-800-848-3792.

23.00 Public Entity Crime: Pursuant to 287.133(3)(a) F.S. the following is applicable to this agreement. 287.133(2)(a) "A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017, F.S. for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list."

24.00 Discrimination: An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.

Financial Project No. 41342212401

Contract No. ANH65

Agreement Date 5/19/2004

IN WITNESS WHEREOF, the parties hereto have caused these presents be executed, the day and year first above written.

AGENCY

City of Miami Beach

AGENCY NAME

SIGNATORY (PRINTED OR TYPED)

SIGNATURE

TITLE

FDOT

See attached Encumbrance Form for date of Funding
Approval by Comptroller

LEGAL REVIEW
DEPARTMENT OF TRANSPORTATION

DEPARTMENT OF TRANSPORTATION

Gary Donn, P.E. Director of Planning

TITLE

EXHIBIT "A"
PROJECT DESCRIPTION AND RESPONSIBILITIES

This exhibit forms an integral part of that certain Joint Participation Agreement between the State of Florida, Department of Transportation and The City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida, 33139

PROJECT LOCATION: Miami Beach, Florida

PROJECT DESCRIPTION: 16th Street Corridor Improvement Project

SCOPE OF SERVICES

The project consists of Design for improvements to:

- The storm water collection and disposal system;
- Road reconstruction and/or milling and resurfacing, and pavement markings;
- Streetscape elements such as sidewalk and curb/gutter repair or replacement, landscaping, enhanced lighting and general beautification;
- Signalization and signage that take into consideration pedestrian needs;
- Pedestrian amenities such as bulb-outs and pedestrian crossings; and
- Possible inclusion of bicycle lanes.

PROJECT DESCRIPTION AND RESPONSIBILITIES

(Continued)

Task 2.1 Field Verification of Existing Conditions

- Detailed topographic survey of project area
- Survey sent to all utility agencies/companies for verification

Task 2.2 Detailed Design

- Minimum efforts: 30%, 60% and 90% design completion
- Deliverables: Furnish 10 sets of 30, 60, 90 and 100% completion stage documents
- Prepare and update project schedule, on a monthly basis
- Attend monthly progress meetings with City's project manager
- Schedule of delivery of each stage documents

Task 2.2.1 Geotechnical Evaluation

Task 2.3 Design / Constructability Review

- Deliverables
- Schedules

Task 2.4 Cost Opinions

- Deliverables
- Schedules

Task 2.5 Community Design Review Meetings

- Consultant shall participate and attend two (2) such meetings

Task 2.6 Document Revisions

Task 2.7 Permitting Reviews

- With all pertinent City, County, State and Federal agencies (listed)
- Deliverables
- Schedules

Task 2.8 Consultant QA/QC of Design Documents

FUNDING FOR DESIGN (to date)

\$100,000 TOP Grant

\$ 20,000 CMF (local match)

\$120,000 for the Final Design

SPECIAL CONSIDERATIONS BY AGENCY:

I. AUDIT REPORTS

The audit report(s) required in paragraph 7.60 of the Agreement shall include a schedule of project assistance that will reflect the Department's contract number, FM number and Job number and the Federal Identification number, where applicable, and the amount of state funding action (receipt and disbursement of funds) and any federal or local funding action and the funding action from any other source with respect to the project.

EXHIBIT "B"
ESTIMATED ANNUAL PROJECT COST AND BUDGET

This exhibit forms an integral part of that certain Joint Participation Agreement between the State of Florida, Department of Transportation and The City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139

I. ESTIMATED PROJECT BUDGET: \$ 120,000

II. FUND PARTICIPATION:

Maximum Federal Participation

(0%) or \$0.00

Public Agency Participation

In-Kind

ICM 20%
(37%)

20,000

Cash

(0%)

\$0.00

Other

(0%)

\$0.00

Maximum Department Participation,

Primary

ICM 80%

TOPS

~~(63%)~~

or \$100,000

Federal Reimbursable (DU)(FRA)(DFTA)

(0%)

or \$0.00

Local Reimbursable (DL)

(0%)

or \$0.00

TOTAL PROJECT COST

\$100,000

EXHIBIT "C"
(GENERAL)

This exhibit forms an integral part of that certain Joint Participation Agreement between the State of Florida, Department of Transportation and the City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139

INVOICING AND PROGRESS REPORTS

In order to obtain any payments, the Public Agency shall:

1. Submit quarterly progress reports which are acceptable to the Department describing the work and which adequately justify and support the payment requested; and
2. Submit to the Department its quarterly invoice on forms prescribed by the Department, and such other data pertaining to the Project Account and the Project as the Department or the Federal Highway Administration may require to justify and support the payment requested; and
3. Comply with all applicable provisions of this Agreement.

Pursuant to Section 22.00, the Department shall have ten (10) working days to inspect and approve the quarterly progress report prior to processing the submitted invoice.

RESOLUTION NO. 2001-24587

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, RETROACTIVELY APPROVING THE ADMINISTRATION'S SUBMISSION OF A \$100,000 GRANT APPLICATION TO THE STATE OF FLORIDA'S TRANSPORTATION OUTREACH PROGRAM (TOP)-2002, ADMINISTERED BY THE FLORIDA DEPARTMENT OF TRANSPORTATION; THE APPLICATION BEING FOR PRELIMINARY PLANNING/DESIGN/ENVIRONMENTAL SERVICES FOR A PROPOSED OPERATIONAL IMPROVEMENTS AND ROADWAY ENHANCEMENTS PROJECT FOR THE 16TH STREET CORRIDOR; STATING THAT THE REQUIRED \$20,000 LOCAL MATCH WOULD BE PROVIDED BY CONCURRENCY MITIGATION FUNDS-SOUTH BEACH; AND FURTHER APPROPRIATING BOTH FUNDS IF THE GRANT IS AWARDED.

WHEREAS, back in 1995, the City received \$2 million in State Transportation/Economic Development road funds to open 16th Street to Collins Avenue, and provide direct access from SR A1A/Collins Avenue to SR 902/Alton Road; and

WHEREAS, this was accomplished as part of a public-private effort that brought the Loews' Hotel to Collins Avenue, helping further Miami Beach' viability and vitality as a convention center and tourist destination; and

WHEREAS, since the Loews' Hotel inauguration in 1998, three additional hotels have been remodeled, and six similar projects will become reality within the next three years, thereby adding hotel rooms and employment opportunities along Collins Avenue; and

WHEREAS, the function and utilization of the wide 16th Street corridor as a through east-west street will continue to grow in importance, as hotel density increases and high-end office space is added to the area; and

WHEREAS, in its present condition, the 16th Street corridor is ill-prepared to handle the additional traffic demands, and pedestrian safety concerns; and

WHEREAS, both the Miami Beach Municipal Mobility Plan-MMP, the Traffic Circulation Element of the Miami Beach Comprehensive Plan, and the General Obligation Bond Program have designated 16th Street as a transportation enhancement/operational improvements priority (the Project) within the South Beach Transportation Concurrency Management Area (TCMA); and


WHEREAS, the total cost of this mixed-use Project has been estimated at \$2.4 million, in today's dollars, and will be planned and funded in three phases; and

WHEREAS, the subject of this application is Phase I, Preliminary Planning/Program Development/Environmental services, estimated to cost \$120,000; being \$100,000 in TOP-2002 funds, and \$20,000 in Concurrency Mitigation funds; and

WHEREAS, the City application was filed with the Florida Department of Transportation on August 31, 2002, the deadline date.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission retroactively approve the Administration's submission of a \$100,000 grant application to the State of Florida's Transportation Outreach Program (TOP)-2002, administered by the Florida Department of Transportation; the application being for Preliminary Planning/Design/Environmental Services for a proposed Operational Improvements and Roadway Enhancements Project for the 16th Street Corridor; stating that the required \$20,000 local match would be provided by Concurrency Mitigation funds-South Beach; and further appropriating both funds if the grant is awarded.

PASSED AND APPROVED this the 20th day of September, 2001.




MAYOR

ATTEST:



CITY CLERK

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

 9-10-01

City Attorney Date

COPY

*Original in Legal
for Review*

INTERLOCAL AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 2004, by and between the Miami-Dade Metropolitan Planning Organization (MPO), hereinafter called the MPO and the *City of Miami Beach*, hereinafter called **MIAMI BEACH**.

That the MPO did determine that **MIAMI BEACH** is fully qualified to render the services contracted.

WITNESSETH:

ARTICLE 1.00: The MPO does hereby retain **MIAMI BEACH** to furnish certain services in connection with the **Miami Beach 16th Street Corridor Master Plan Study**, as described in Exhibit "A": "Scope of Services", Exhibit "B": "Tentative Project Schedule" and Exhibit "C": "Project Cost" attached hereto and made a part hereof as though fully recited herein.

ARTICLE 2.00: The MPO and **MIAMI BEACH** mutually agree to furnish, each to the other, the respective services, information and items as described in Exhibit "A" Scope of Services, Exhibit "B" Tentative Project Schedule, and Exhibit "C" Project Cost. The MPO agrees to furnish **MIAMI BEACH** and its duly designated representatives information including, but not limited to, existing data and projects related to the study area which may be available in other governmental offices. **MIAMI BEACH** agrees to perform, in a timely and professional manner, the work elements set forth in the above-enumerated Exhibits, in accordance with the Schedule set forth in Exhibit "B".

Before initiating the work described in Exhibits "A", "B", and "C", the MPO Director or his designee shall execute and issue **MIAMI BEACH** a Notice-to-Proceed with the work described in said Exhibits, such work to constitute performance of the **Miami Beach 16th Street Corridor Master Plan Study** as set forth in said Exhibits.

ARTICLE 3.00: The services to be rendered by **MIAMI BEACH** shall be commenced subsequent to the execution and issuance of the Notice-to-Proceed and shall be completed within **one year** from the date of execution and issuance of the Notice-to-Proceed.

ARTICLE 4.00: **MIAMI BEACH** agrees to provide Project Schedule progress reports on a monthly basis and in a format acceptable to the MPO Director. The MPO Director shall be entitled at all times to be advised, at his request, as to the status of work being done by **MIAMI BEACH** and of the details thereof. Coordination shall be maintained by **MIAMI BEACH** with representatives of the MPO. Either parties to the agreement may request and be granted a conference.

ARTICLE 5.00: In the event there are delays on the part of the MPO as to the approval of any of the materials submitted by **MIAMI BEACH** or if there are delays occasioned by circumstances beyond the control of **MIAMI BEACH** which delay the Project Schedule completion date, the MPO Director or his designee may grant **MIAMI BEACH**, by a letter an extension of the contract time, equal to the aforementioned delays, provided there are no changes in compensation or scope of work.

It shall be the responsibility of **MIAMI BEACH** to ensure at all times that sufficient contract time remains within which to complete services on the project and each major Task Group as designated with roman numerals on the Exhibits. In the event there have been delays which would affect the project completion date or the completion date of any major Task Group, **MIAMI BEACH** shall submit a written request to the MPO Director or his designee **twenty (20) days** prior to the schedule completion date which identifies the reason(s) for the delay and the amount of time related to each reason. The MPO Director or his designee will review the request and make a determination as to granting all or part of the requested extension. Scheduled completion dates shall be determined by the elapsed times shown in Exhibit "B" and the issue date of the Notice-to-Proceed.

In the event contract time expires and **MIAMI BEACH** has not requested, or if the MPO Director or his designee has denied an extension of the completion date, partial progress payments will be stopped on the date time expires. No further payment for the project will be made until a time

extension is granted or all work has been completed and accepted by the MPO Director or his designee.

ARTICLE 6.00: *MIAMI BEACH* shall maintain an adequate and competent professional staff and may associate with it, for the purpose of its services hereunder, without additional cost to the MPO, other than those costs negotiated within the limits and terms of this Agreement and upon approval by the MPO Director, such specialists as *MIAMI BEACH* may consider necessary. *MIAMI BEACH*, however, shall not sublet, assign or transfer any work under this Agreement to firms, other cities, or individuals without the written consent of the MPO Director or his designee.

ARTICLE 7.00: *MIAMI BEACH* shall not be liable for use by the MPO of plans, documents, studies or other data for any purpose other than intended by the terms of this Agreement.

ARTICLE 8.00: All tracings, plans, specifications, maps, and/or reports prepared or obtained under this Agreement shall be considered research and shall become the property of the MPO without restriction or limitation on their use; and shall be made available, upon request, to the MPO at any time. Copies of these documents and records shall be furnished to the MPO upon request, verbal or written, allowing reasonable time for the production of such copies.

SUB-ARTICLE 8.10: Records of costs incurred by *MIAMI BEACH* and all subconsultants performing work on the project, and all other records of *MIAMI BEACH* and subconsultants considered necessary by the MPO for proper audit of project costs, shall be furnished to the MPO upon request.

Whenever travel costs are included in the performance of services set forth in Exhibits "A", "B" and "C", the provisions of Metropolitan Miami-Dade County Administrative Order 6-1, shall govern *or Florida Statutes, whichever is more restrictive.*

MIAMI BEACH shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by *MIAMI*

BEACH in conjunction with this Agreement. Failure by **MIAMI BEACH** to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by the MPO Director.

ARTICLE 9.00: MIAMI BEACH shall comply with all federal, state, and local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance or work under this contract.

ARTICLE 10.00: The MPO agrees to pay **MIAMI BEACH** compensation as per Article 16.00 of this Agreement and Exhibits "A", "B", and "C", attached hereto and made a part hereof.

ARTICLE 11.00: The MPO Director may terminate this Agreement in whole or in part at any time the interest of the MPO requires such termination.

SUB-ARTICLE 11.10: If the MPO Director determines that the performance of **MIAMI BEACH** is not satisfactory, the MPO Director shall have the option of (a) immediately terminating the Agreement or (b) notifying **MIAMI BEACH** of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Agreement will be terminated at the end of such time.

SUB-ARTICLE 11.20: If the MPO Director requires termination of the Agreement for reasons other than unsatisfactory performance of **MIAMI BEACH**, the MPO Director shall notify **MIAMI BEACH** of such termination, with instructions as to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

SUB-ARTICLE 11.30: If the Agreement is terminated before performance is completed, **MIAMI BEACH** shall be paid for the work satisfactorily performed. Payment is not to exceed the prorated amount of the total agreement amount based on work satisfactorily

completed. Such determination shall be based and calculated upon a percentage allocation of total project cost, by major Task Group.

ARTICLE 12.00: All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

ARTICLE 13.00: **MIAMI BEACH** warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for **MIAMI BEACH**, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Agreement. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted.

SUB-ARTICLE 13.10: For the breach or violation of Article 13.00, the MPO Director shall have the right to terminate this Agreement without liability, and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

ARTICLE 14.00: **MIAMI BEACH** agrees that it shall make no statements, press releases or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of this Agreement, without first notifying the MPO Director or his designee and securing its consent. **MIAMI BEACH** also agrees that it shall not copyright or patent any of the data and/or information furnished in compliance with this Agreement, it being understood that, under Article 8.00 hereof, such data or information is the property of the MPO. This Section shall not be construed to limit or restrict public access to documents, papers, letters or other material pursuant to Article 8.10 of this Agreement.

ARTICLE 15.00:The MPO shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure. Any contract, verbal or written, made in violation of this subsection shall be null and void, and no money shall be paid on such contract.

ARTICLE 16.00:Method of compensation - It is mutually agreed and understood that the following provision shall be applicable to this Agreement. **MIAMI BEACH** shall invoice monthly in a format acceptable to the MPO Director or his designee and shall be paid as a percent of the fixed fee equal to the portion of the service complete pursuant to each Task Order executed in accordance with Article 2.00. **MIAMI BEACH** shall invoice 100% of the fixed fee upon completion of all Task Orders, as indicated under Exhibit "A". The total project cost is **\$75,000.00, including \$30,000.00 match from MIAMI BEACH.** The compensation to be paid to **MIAMI BEACH** shall not exceed **\$45,000.00**, as indicated in Article 10.00 hereof.

SUB-ARTICLE 16.10:It is agreed that said compensation provided in Article 16.00 hereof shall be adjusted to exclude any significant sums where the MPO Director shall determine that reported costs by **MIAMI BEACH** reflect inaccurate, incomplete or non-current costs. All such adjustments shall be made within 60 days following the end of the Agreement. For purpose of this Agreement, the end of the Agreement shall be deemed to be the date of final billing or acceptance of the work by the MPO Director or his designee, whichever is later.

ARTICLE 17.00:Standards of Conduct - Conflict of Interest - **MIAMI BEACH** covenants and agrees that it and its employees shall be bound by the standards of conduct provided in Florida Statutes 112.313 as it relates to work performed under this Agreement, which standards will be reference be made a part of this Agreement as though set forth in full. **MIAMI BEACH** agrees to incorporate the provisions of this article in any subcontract into which it might enter with reference to the work performed.

ARTICLE 18.00:The MPO Director reserves the right to cancel and terminate this Agreement in the event **MIAMI BEACH** or any employee, servant, or agent of **MIAMI BEACH** is indicted or has

direct information issued against him for any crime arising out of or in conjunction with any work being performed by **MIAMI BEACH** for or on behalf of the MPO, without penalty. It is understood and agreed that in the event of such termination, all tracings, plans, specifications, maps, and data prepared or obtained under this Agreement shall immediately be turned over to the MPO Director in conformity with the provisions of Article 8.00 hereof. **MIAMI BEACH** shall be compensated for its services rendered up to the time of any such termination in accordance with Article 11.00 hereof.

ARTICLE 19.00: To the extent permitted by law, and subject to the limitations included within Florida Statutes Section 768.28, **MIAMI BEACH** shall indemnify and save harmless the MPO from any and all claims, liability, losses and causes of action arising out of **MIAMI BEACH'S** negligence or other wrongful acts in the performance of this agreement. However, nothing herein shall be deemed to indemnify the MPO for any liability or claims arising out of the negligence, performance, or lack of performance of the MPO.

To the extent permitted by law, and subject to the limitations included within Florida Statutes Section 768.28, the MPO shall indemnify and save harmless **MIAMI BEACH** from any and all claims, liability, losses and causes of action arising out of the MPO's negligence or other wrongful acts in the performance of this agreement. However, nothing herein shall be deemed to indemnify **MIAMI BEACH** for any liability or claims arising out to the negligence, performance, or lack of performance of **MIAMI BEACH**.

ARTICLE 20.00: This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

ARTICLE 21.00:

Attachments:

Exhibit "A", Scope of Services

Exhibit "B", Project Schedule

Exhibit "C", Project Budget

No alteration, change or modification of the terms of this Agreement shall be valid unless made in writing, signed by both parties hereto, and approved by the Governing Board of the Metropolitan Planning Organization.

This Agreement, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida and venue shall be in Miami-Dade County, Florida.

IN WITNESS WHEREOF, the parties hereto have executed these presents this _____ day of _____, 2004.

ATTEST: MIAMI-DADE COUNTY FLORIDA

**By The Governing Board of
Metropolitan Planning The Metropolitan Planning
Organization(MPO) Organization**

By: _____

Director, MPO Secretariat

By: _____

County Manager

ATTEST: CITY OF MIAMI BEACH

By: _____

MIAMI BEACH Representative

By: _____

MIAMI BEACH Project Manager

EXHIBIT “A”
SCOPE OF SERVICES
FOR
TASK I - MASTER PLAN SERVICES

SIXTEENTH (16) STREET CORRIDOR PROJECT

OBJECTIVES:

- **General:** The 16th Street Corridor Master Plan will conduct the necessary surveys, tests, data collection, pedestrian and traffic counts, road characteristics inventory (RCI), and analysis needed to prepare recommendations, conceptual design, preliminary cost estimates and timelines for the improvements and enhancements being proposed for the corridor, among them:
 - Operational and safety improvements to the corridor, intersections and signalization.
 - Drainage, milling, resurfacing and striping of roadway, plus sidewalk and curb/gutter improvements. Sixteenth Street was last resurfaced over 20 years ago.
 - Feasibility of including a bicycle lane as the neighborhood’s east-west connector to the Atlantic Greenway Trail (coastal bikeway system).
 - Corridor enhancements such as traffic calming, bulb-outs, pedestrian crosswalks, shade streetscaping.
- **Livable Communities:** The Master Plan will take into consideration the mixed-use character of the area and apply “livable community” principles to the Master Plan’s preliminary design concepts to ensure that the neighborhood residents and area patrons (pedestrian, bicyclists, park & riders, etc.) will be safer and feel safer as they traverse 16th Street on their way to/from home, places of employment, shopping, entertainment, and sports/leisure activities.
- **Mobility:** The Master Plan will also take into consideration the need for mobility through the corridor due to the fact that it connects the hotel area of SR A1A/Collins Avenue with SR 907/Alton Road, and the Flamingo Neighborhood to Lincoln Road and the City’s Civic/Convention Center area.
- **Recommendations:** The Master Plan recommendations will be based on results of a comprehensive study/analysis of the impacts to the road and adjacent areas, due to the corridor opening to Collins Avenue, back in 1998.
- The Master Plan will also include a cost estimate, a preliminary project schedule, and an executive summary.

PREVIOUS WORK:

- In 1998, the 16th Street corridor was opened from Washington Avenue to Collins Avenue, as part of a public-private economic development initiative to bring a convention-quality hotel to Miami Beach. This provided an additional and valuable east-west through corridor in South Beach.
- Both the Miami Beach Comprehensive Plan and the Municipal Mobility Plan include the 16th Street Project as MMP Project #33.
- In addition, the Project is an essential element of the South Beach Transportation Concurrency Management Area (SoBe TCMA) Plan, thereby suitable to receiving Concurrency Mitigation Program funds (local match).
- The 16th Street Project has been awarded \$100,000 in Florida Department of Transportation (FDOT) funds, under the FY 2003 Transportation Outreach Program (TOP), matched with \$25,000 in Concurrency Mitigation-South Beach funds. The TOP funds will be utilized for design services.

METHODOLOGY:

TASK 1.1 Define Goals/Objectives

- Kickoff Meeting (consultant and City staff)
- Conduct Data Collection and Analysis of the 16th Street Corridor:
 - Traffic counts (Weekday/Weekend)
 - Speed data
 - Vehicles classifications
 - Accident and crash reports
 - Intersection turning movements
 - Level-of-service analysis
 - Seasonal adjustments
 - Roadway characteristic inventory
 - Pedestrian counts
 - Parking inventory
 - Drainage condition
 - Other utilities replacement
 - Landscaping inventory
 - Operational improvements
 - Urban design opportunities
 - Findings/recommendations
- Define goals and objectives for the study pursuant to results of the data collection and analysis.

- TASK 1.2** Develop 16th Street Corridor Conceptual Plan
- Meet with Technical Committee to review the previously-defined goals and objectives and conduct a visioning session for the project.
 - Develop a conceptual plan, based on input received from the Technical Committee.
 - Present conceptual plan to the Transportation and Parking Committee.
 - Hold *Community Workshop No. 1* to present the conceptual plan and receive community input.
- TASK 1.3** Draft 16th Street Master Plan and Draft BODR *
- Pursuant to input received at the three meetings, above mentioned, prepare a Draft Master Plan/BODR for the project.
 - Meet with the Technical Committee for draft plan review.
 - Presentation/final discussions w/Transportation & Parking Committee
 - Hold *Community Workshop No. 2* to receive final input.
- TASK 1.4** Final 16th Street Master Plan and Final BODR *
- Prepare a final Master Plan/BODR which will include final input from Technical Committee, Transportation & Parking Committee, and Community.
 - Review Master Plan with City and applicable regulatory agencies
 - Present the Final Master Plan/BODR at City Commission Meeting for adoption.
 - Presentation of adopted Master Plan/BODR to the MPO's Transportation Planning Council.

Recap of all meetings to be conducted under Task I. Methodology:

Kick-off meeting	1	
Technical Committee Meetings	3	
City Transportation & Parking Committee	2	
Community Workshops	2	
Master Plan review with regulatory agencies	3	(City, County, and State)
City Commission Meeting	1	
Presentation to MPO's TPC	<u>1</u>	
	13 meetings	

END PRODUCTS:

A Master Plan for a 16th Street Corridor Project which will ultimately help the City achieve and further its transportation, safety, mobility and quality of life (livable communities) goals for the South Beach area, being:

- A conceptual plan
- A Draft Master Plan, Cost Estimate, Project Schedule, and Executive Summary
- A Final Master Plan, Cost Estimate, Project Schedule, and Executive Summary

A draft Basis of Design Report (BODR) shall be prepared for the 16th Street Corridor Project presenting the results of the Community Design Workshops, including a summary of findings and a map illustrating all proposed improvements under the current phase (Master Plan) of the project; and a **final** BODR which will include the revisions implemented during reviews with City and regulatory agencies. The BODR will serve as the basis for development of detailed design documents.

CITY PROJECT MANAGER:

Amelia Johnson

PARTICIPATING AGENCIES:

City of Miami Beach

Metropolitan Planning Organization

Florida Department of Transportation

Miami-Dade County Public Works

EXHIBIT "B"

PROJECT SCHEDULE

Miami Beach 16th Street Corridor Master Plan Study

		Months										
		1	2	3	4	5	6	7	8	9	10	11
TASK 1-1:	Define Goals/Objectives											
TASK 1-2:	Develop Conceptual Plan											
TASK 1-3:	Draft Master Plan											
TASK 1-4:	Final Master Plan											

EXHIBIT "C"
PROJECT BUDGET

Miami Beach 16th Street Corridor Master Plan Study

TASK 1-1: Define Goals/Objectives	\$ 34,000
TASK 1-2: Develop Conceptual Plan	\$ 17,000
TASK 1-3: Draft Master Plan	\$ 10,000
TASK 1-4: Final Master Plan	<u>\$ 14,000</u>
TOTAL	\$ 75,000

RESOLUTION NO. 2002-24907

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO SUBMIT A GRANT APPLICATION TO THE METROPOLITAN PLANNING ORGANIZATION, FOR FUNDING UNDER THE FISCAL YEAR 2003 MUNICIPAL GRANT PROGRAM, IN AN AMOUNT NOT TO EXCEED \$45,000, TO BE MATCHED WITH AN AMOUNT NOT TO EXCEED \$30,000 IN CONCURRENCY MITIGATION PROGRAM FUNDS, FOR A TOTAL PROJECT COST OF \$75,000; TO BE USED FOR THE 16TH STREET CORRIDOR MASTER PLAN STUDY; FURTHER APPROPRIATING THE GRANT IF APPROVED AND ACCEPTED BY THE CITY; AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE ALL NECESSARY DOCUMENTS RELATED TO THIS APPLICATION

WHEREAS, the Municipal Grant Program provides funds for transportation planning studies to municipalities within Miami-Dade County to plan for transportation improvements; and

WHEREAS, the Program requires a minimum 20% match, and the City has Concurrency Mitigation Program Funds available to serve as the required local match; and

WHEREAS, the Governing Board of the Metropolitan Planning Organization (MPO) for the Miami Urbanized Area has approved \$150,000 in MPO transportation planning funds to be made available to municipalities as funding for this Program, and funds will be available in October 2002; and

WHEREAS, the City proposes to apply for funding to conduct the 16th Street Corridor master plan study, which is an essential element of the South Beach Transportation Concurrency Management Plan, thereby suitable to receiving Concurrency Mitigation Program Funds; and

WHEREAS, the study will have two main objectives: 1) To prepare a master plan for the implementation of operational/safety improvements and roadway enhancements to the 16th Street Corridor; and 2) To provide master plan recommendations based on the results of a comprehensive study and analysis; and

NOW, THEREFORE BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission authorize the City Manager or his designee to submit a grant application to the Metropolitan Planning Organization, for funding under the Fiscal Year 2003 Municipal Grant Program, in an amount not to exceed \$45,000, to be matched with an amount not to exceed \$30,000 in Concurrency Mitigation Program Funds, for a total Project cost of \$75,000; to be used for the 16th Street Corridor Master Plan Study; further appropriating the grant if approved and accepted by the City; and authorizing the Mayor and City Clerk to execute all necessary documents related to this application.

PASSED and ADOPTED this 19 day of June, 2002

ATTEST:

MAYOR

CITY CLERK

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

W. Melnick 6-11-02
City Attorney Date
[Signature]

RESOLUTION TO BE SUBMITTED

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